

Agenda item n. 80 – Crimes against humanity

Statement of Italy

Delivered by Mr Enrico Milano

Thank you Mr Chair,

Mr Chair,

At the outset, let me state that Italy aligns itself with the statements delivered by the distinguished representative of the European Union and by the distinguished representative of Sierra Leone on behalf of a group of States. We would like to add

The Draft Articles on Crimes against Humanity constitute a solid basis for the negotiations of a global convention facilitating cooperation among States in this field, in order to ensure justice and accountability for the perpetrators of these heinous crimes. That is without prejudice to Italy's positions on the specific contents of such future convention.

At this stage, we would like to make the following three substantive observations. It is not acceptable that 75 years after the conclusion of the UN Convention on the Prevention and Repression of Genocide and the 1949 Geneva Conventions, the international community is still lacking a global legal instrument addressing horizontal cooperation on crimes against humanity.

Firstly At the same time, Italy would like to stress once again highlight the need for full coordination between future negotiations on a convention stemming from the ILC Draft Articles and parallel, complementary international legal instruments promoting judicial cooperation on the prosecution of international crimes. Areas of legal overlapping with regard to judicial cooperation on crimes against humanity should not result in inconsistencies complicating the task of national law-makers when incorporating those instruments in their domestic legal order. For instance, while cognizant of the *pacta tertiis* principle, we are of the view that the Rome Statute should represent the point of reference for the elaboration of definitions that will be adopted in a future convention.

Secondly Furthermore, Italy wishes to reiterate its support for the inclusion in the draft articles of rules guaranteeing that any criminal prosecution on crimes against humanity, notwithstanding their particularly heinous character, is conducted in compliance with the principles of due process and fair trial, with international human

rights law and with international humanitarian law when applicable. We are of the view that those provisions should be fully reflected in the future instrument.

Thirdly Finally, in a future treaty instrument developed on the basis of the draft articles, we would like to see a provision on the compatibility (or lack thereof) of amnesties with the international legal obligations concerning the prevention and repression of crimes against humanity –