



## UNITED STATES MISSION TO THE UNITED NATIONS

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**United States Statement**  
**April 2024 Resumed Session of the Sixth Committee:**  
**ILC's Draft Articles on the Prevention and Punishment of Crimes Against Humanity**  
**Cluster 1 (Introductory Provisions: Preamble and Article 1)**  
**Intervention by Mark Simonoff, Legal Adviser**  
**United States Mission to the U.N.**  
**(as delivered) April 1, 2024**

Thank you, Mr. Chair. The United States welcomes this opportunity to exchange substantive views with other States on the International Law Commission's Draft Articles on the Prevention and Punishment of Crimes against Humanity. We were proud to join more than eighty other co-sponsors of resolution 77/249, which called for this Resumed Session, and to participate in the first resumed session in April 2023, as well as to submit written comments in December 2023. We wish to thank the Commission and Special Rapporteur Sean Murphy, in particular, for their valuable contributions to this important project.

More than 75 years after the trials at Nuremberg and Tokyo, there is no general multilateral convention on the prevention and punishment of crimes against humanity. Meanwhile, crimes against humanity continue to be committed – all too often with impunity. In the view of the United States, it is time to begin the process to strengthen the legal framework for preventing and punishing crimes against humanity. Accordingly, as we will elaborate later in this resumed session, we support a decision this coming fall to begin a process to negotiate a convention on the prevention and punishment of crimes against humanity.

Turning now to Cluster 1, as we stated in our written comments, the United States notes the important role that the Preamble and Draft Article 1 play in the overall structure of the Draft Articles. We were pleased, in particular, to see that the Preamble draws inspiration from language used in the Convention on the Prevention and Punishment of the Crime of Genocide in setting out the general context and the main purpose of the Draft Articles—including prevention and accountability. In many respects, like other delegations, the United States views the Genocide Convention as the primary model for any future convention on the prevention and punishment of crimes against humanity.

However, as we have previously stated, further clarification in the Draft Article would be useful. For instance, nothing in the Draft Articles should be construed as authorizing any act of aggression or any other use of force inconsistent with the Charter of the United Nations. The Draft Articles should guard against the possibility that the duty to prevent and punish crimes against humanity could be used as a pretext for unlawful uses of force. Similarly, we believe the language should be clearer that the Draft Articles would not modify international humanitarian

law, which is the *lex specialis* applicable to armed conflicts. We would not want the Draft Articles to be interpreted in ways that may purport to alter international humanitarian law or criminalize conduct undertaken in accordance with international humanitarian law.

With those observations in mind, we look forward to hearing from others here about the value of this initiative given the need for the international community to do more to work toward the prevention and punishment of crimes against humanity the world over.

Thank you, Mr. Chair.