



PERMANENT MISSION OF CUBA TO THE UNITED NATIONS

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**STATEMENT BY THE DELEGATION OF CUBA UNDER AGENDA ITEM 81:
“EXPULSION OF ALIENS”**

New York, 2 November 2023

Mr. Chair,

The Cuban delegation wishes to thank the International Law Commission for preparing the Draft Articles on the Expulsion of Aliens, as well as for taking into account the considerations by Member States in its reports.

At the same time, we believe that the draft articles prepared by the International Law Commission are a valid contribution that may be a starting point for drawing up an international convention on this matter, based on the consent of States.

Cuba considers the codification of the rights of persons expelled or in the process of being expelled to be useful,

as long as it inspired by the principle of Comprehensive Protection of Human Rights of the person who has been or is being expelled, and the sovereignty of States is not violated.

The protection of the human rights of persons who have been or are being expelled cannot constitute a limit to the exercise of the State's right of expulsion. In this regard, it is necessary to take into account respect for domestic law and the maintenance of public security of each State.

Likewise, we consider that prior notification to the State of destination on the application of expulsion is crucial, in order to expressly protect the right to communication of the persons that have been or are being expelled with their consular representation.

Mr. Chair,

The Cuban Criminal Law envisages the Expulsion of Alien as one of the accessory penalties applicable to natural persons by the sanctioning court. It is established that the

penalty of expulsion can be imposed on an alien when the competent court considers that, due to the nature of the offense, the circumstances of its perpetration, or the personal characteristics of the accused person, it is evident that their stay in the country is prejudicial. In addition, it provides that the imposition of the expulsion of aliens as an accessory measure, proceeds after the main penalty is expired and grants the Minister of Justice discretionary powers to order the expulsion of the sanctioned foreigner before the completion of the main penalty, in which case the criminal liability of the sanctioned person is extinguished.

Mr. Chair,

Cuba reiterates that the binding force of international instruments derives from the consent of States in the process of establishment of international law.

We recognize the work of the International Law Commission, as well as the efforts of each one of its members in the contribution to the progressive development of international law.

However, we insist that we cannot consider the International Law Commission, by itself, as a sort of legislative body in charge of establishing norms of international law. Its valuable contribution has been to record the topics in which the States have prepared regulations with significance for international law and to propose those issues regarding which the States might be interested in considering the possibility of developing such norms.

I thank you.