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Sixth Committee (Legal) Ͷ 78th session

Crimes Against Humanity

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These provisions are essential to avoid impunity and ensure accountability, and
therefore make operational the draft articles on crimes against humanity that we
are currently discussing. Portugal is

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As to the immunity of foreign State officials under customary international law,
we note that only the so-called troika enjoys such immunity and only during its
term of office. The ongoing work of the ILC on this topic offers good guidance on
this matter and we do not see any need to further develop paragraph 5.

Turning to paragraphs 6, on the statute of limitations, and 7, on ensuring
adequate penalties, follow the same logic of ensuring accountability without
undue restrictions. In any case, we would like to note that such penalties have to
be in line with human rights law.

As is the case with other conventions on criminal matters, a convention on crimes
against humanity does not need to prescribe specific penalties. Having said that,
we would like to restate Portugal’s strong and unconditional opposition to the
application of death penalty in any circumstance. Portugal – as many other States
– are barred from transferring a person suspected of having committed crimes
against humanity to a State where he or she may be subject to the death penalty
which would otherwise violate the human right to life enshrined in the European
Convention on Human Rights and the Portuguese Constitution.

Mr. Chair,

We would like to again underline the importance of draft Article 8.
It is our view that States, particularly those in which territory the crimes have
been committed, have ab initio priority over the ICC in the exercise of their
jurisdiction over crimes against humanity. But their willingness to conduct a
prompt, thorough and impartial investigation is an important test – if such
willingness is not genuine than the ICC should act when it has jurisdiction to do
so.

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Mr. Chair,

We welcome the inclusion of the aut dedere aut judicare principle in draft article
10, which contributes to avoid any gap and ensure accouā瘀