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CHECK AGAINST DELIVERY

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STATEMENT BY MERHABA HASLER

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Chair,

Liechtenstein is pleased to engage in this substantive discussion on the ILC's Draft Articles on the Prevention and Punishment of Crimes Against Humanity. We welcome the opportunity to delve deeper into these discussions and appreciate the robust exchange of perspectives.

As many others have recalled, while existing international treaties cover genocide, war crimes, and the crime of aggression, there remains a notable absence of a dedicated treaty for crimes against humanity. Liechtenstein, therefore, supports the elaboration of a crimes against humanity convention as an important step in bridging this gap in the international criminal justice system and ensuring justice for victims of atrocity crimes.

We again commend the ILC for their draft articles, which provide a solid foundation for this endeavor. However, we would like to briefly comment on the definition of "crimes against humanity" as reflected in Draft Article 2. First and foremost, it is crucial to recognize that the definition of crimes against humanity, as outlined in the Rome Statute, is to be considered customary international law. The definitions of the core crimes within the Rome Statute, including those concerning crimes against humanity, have been utilized both within and outside the Rome Statute framework, demonstrating their practical effectiveness and acceptance.

More specifically, under Article 7(1)(h) of the Rome Statute, persecution may constitute the foundational act of a crime against humanity where the persecution is in connection with any of the other acts that may constitute a crime against humanity, as well as where the persecution is in connection with any crime within the jurisdiction of the ICC. The other core crimes within the jurisdiction of the Court include war crimes, genocide, and the crime of aggression.

However, the current formulation of the draft articles on the prevention and punishment of crimes against humanity states that persecution may only qualify as a crime against humanity if it is “in connection with” any of the other acts listed in Draft Article 2(1). This limitation contrasts with the Rome Statute, where persecution can serve as a foundational act of a crime against humanity under broader circumstances. We therefore suggest amending Draft Article 2(1)(h) to incorporate reference to all three of these crimes: war crimes, genocide and the crime of aggression in connection with persecution.

Additionally, we also note that the issue of immunity is governed by customary international law including the jurisprudence of the ICJ and other international courts. And that article 7 of the ILC Draft Articles on Immunity of State officials from foreign criminal jurisdiction states that functional immunity does not apply in respect of crimes against humanity, nor does personal immunity apply before international courts in line with the ICJ’s *Certain Expenses* decision. Furthermore, we share the view of the ILC that the official position of perpetrators of crimes against humanity does not exclude their criminal responsibility.

Looking ahead, we look forward to engaging in discussions at a dedicated international conference focused on elaborating a convention on crimes against humanity. Drawing inspiration from the successful adoption of the Ljubljana-The Hague Convention on Mutual Legal Assistance, we view the creation of a convention on crimes against humanity as complementary to the existing legal frameworks. And we remain hopeful that through our collective and cross-regional efforts, we will one day realize the adoption of such a convention.

I thank you.