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Chair: Mr. Chindawongse (Thailand)

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The meeting was called to order at 10 a.m.

Agenda item 80: Crimes against humanity
(continued) (A/C.6/78/L.22 and A/C.6/78/L.22/Add.1)

Draft written summary

1. **Ms. Lungu** (Romania), Vice-Chair, introducing the draft written summary (A/C.6/78/L.22 and A/C.6/78/L.22/Add.1) on behalf of the Rapporteur, who could not attend the meeting, recalled that, in its resolution 77/249, the General Assembly had decided that a written summary of the deliberations during the first and second resumed sessions would be prepared by the Committee at the end of the second resumed session. In addition, at the first resumed session, the Committee, during its discussion of the working arrangements for the two resumed sessions, had decided that the written summary would be presented in the form of a technical report with an annex containing a summary of the deliberations at both sessions, to be prepared under the responsibility of the Chair and drawn from the oral reports of the co-facilitators. The Chair's summary would be considered for adoption and inclusion in the written summary.

Technical report (A/C.6/78/L.22)

2. The technical report was composed of 20 paragraphs. In paragraphs 1 and 2, reference was made to the salient parts of General Assembly resolution 77/249. In paragraph 3, it was stated that the Committee had held both resumed sessions, in accordance with that resolution. Paragraphs 4 to 10 contained information on the proceedings of the first resumed session. In particular, in paragraph 8, it was indicated that, at the opening meeting of the first resumed session, the Committee had adopted the programme of work for the two resumed sessions, as well as the working arrangements proposed by the Bureau. In paragraph 10, it was stated that the Committee had taken note of the oral report of the co-facilitators on the proceedings of the first resumed session.

3. Paragraphs 11 to 20 related to the proceedings of the second resumed session. In particular, in paragraph 16, it was stated that the Committee had had before it the report of the Secretary-General (A/78/717 and A/78/717/Add.1), prepared pursuant to paragraph 6 of resolution 77/249, which contained a compilation of the written comments and observations received from Member States on the draft articles on prevention and punishment of crimes against humanity and on the recommendation of the International Law Commission. In paragraph 18, reference was made to the presentation by the co-facilitators, at the Committee's 46th meeting,

of an oral report on the deliberations at the current resumed session.

4. Upon adoption of the final written summary, in paragraph 19, it would be stated that the Chair's summary of the deliberations at the first and second resumed sessions was contained in the annex to the technical report. In paragraph 20, it would be indicated that the Committee had adopted the draft written summary, together with its annex, pursuant to paragraph 5 of General Assembly resolution 77/249.

5. The Chair invited the Committee to consider the technical report paragraph by paragraph, in accordance with its usual practice.

Paragraphs 1 to 10

6. *Paragraphs 1 to 10 were adopted.*

Paragraphs 11 to 20

7. **The Chair** said that some of the text in paragraph 18 and all of paragraphs 19 and 20 appeared in square brackets, indicating that the relevant information had been included provisionally, subject to the Committee's approval of the incorporation of the annex and adoption of the written summary as a whole. The understanding was that following such approval and adoption, the brackets would be removed from the final version.

8. **Ms. Dakwak** (Nigeria) said that the name of the Rapporteur had been included in paragraph 12 even though he was not present at the current meeting. It was difficult to see how the document could be adopted in the absence of the Rapporteur, who had been responsible for coordinating the process. Indeed, it was unclear what contribution he had made to the process, as he did not seem to have coordinated even with the States of his own region, Africa, resulting in a lack of transparency. Moreover, her delegation had previously raised that issue and had expected it to have been addressed before the current meeting.

9. **The Chair** said that, with regard to transparency, although he guaranteed that the concerns expressed by the representative of Nigeria would be taken into account, he wished to point out that, throughout the process, the Bureau had held close consultations, all of which had been attended – albeit virtually – by the Rapporteur. The Bureau had also done its best to fully take into consideration the views of all regional groups, including the Group of African States. Moreover, it had been an honour to have the Rapporteur's name reflected in the report, as he was still the Rapporteur of the Committee.

10. Even though the Rapporteur was not physically present at the current meeting, he was present in spirit, and the statement delivered by the Vice-Chair had been prepared with his concurrence. Indeed, had the Chair been unable to attend the current meeting, the Vice-Chair would have replaced him, a development that he hoped would not have impeded the Committee's discussions.

11. He nevertheless fully noted and respected the comments made by the representative of Nigeria, as they reflected the broader need for extensive engagement with all regional groups. Although he was open to specific suggestions on paragraph 12, he wished to reassure the Committee members that the transparency requirements of the process had been fulfilled. In that regard, he also noted that he had consulted closely with the previous Chair of the Committee, who had also represented the Group of African States.

12. **Ms. Nyakoe** (Kenya) said that, although her delegation trusted that the requisite consultations had been held, it wished to suggest, for future reference, that the absence of a critical participant at an in-person meeting be indicated at the beginning of the meeting. That would enhance transparency and trust.

13. **The Chair** said that the comments made by the representative of Kenya were well founded and that such clarifications would be made at an earlier stage in the future. He therefore wished to state, albeit belatedly, for the record, that, since the Rapporteur had not been able to attend the current meeting, he had requested that the Vice-Chair introduce the report on the Rapporteur's behalf.

14. He took it that the Committee wished to adopt paragraphs 11 to 20, on the understanding that the brackets in paragraphs 18, 19 and 20 would be removed from the final version of the report if the Committee agreed to have the Chair's summary appended to the draft written summary.

15. *It was so decided.*

16. *Paragraphs 11 to 20 were adopted.*

Chair's summary (A/C.6/78/L.22/Add.1)

17. **The Chair** said that the summary had been prepared under his responsibility, with the assistance of the Secretariat, for the convenience and information of delegations and without prejudice to the positions of Governments. It would be appended to the written summary for reference purposes only and not as a reflection of the position of the Committee as a whole. Consequently, it would not require paragraph-by-paragraph consideration and adoption. Instead, he

suggested that the Committee consider whether or not the annex containing his summary should be appended to the technical report as part of the written summary, as had been agreed at the first resumed session.

18. The annex was composed of six parts covering the discussions held at the two resumed sessions, the first five of which related to the discussions on the draft preamble and the draft articles, and the last of which covered the discussions on the recommendation of the International Law Commission. The content of each section had been drawn almost verbatim from the co-facilitators' oral reports. The annex therefore represented a single consolidated document, reflecting the deliberations at both resumed sessions.

19. As the annex had not been finalized until 8 April 2024, there had not been sufficient time to have it translated into all the official languages, especially given the financial crisis facing the Organization. It was therefore currently only available in the language of drafting, namely, English, although there were plans to make it available in all official languages in the final version of the written summary, to be transmitted to the Committee at its seventy-ninth session. Given the value of the Chair's summary and the richness of the debate reflected therein, he hoped that the Committee could proceed pragmatically and agree for the annex to be appended to the written summary.

20. **Mr. Khng** (Singapore) said that, although his delegation understood that the Chair's summary was intended for reference purposes only and did not, by definition, reflect all the points made during the relevant deliberations, it wished to suggest some minor technical amendments to two sentences in order to ensure their accuracy.

21. **Ms. Dakwak** (Nigeria) said that the Chair's summary should not just be appended without further consideration, since it contained a number of issues that needed to be addressed

22. **The Chair** reiterated that the summary had been designed for the convenience and information of delegations, and without prejudice to the positions of Governments. He did not think he was in a position to hold negotiations on the summary. Instead, he suggested that, before the Committee could consider whether or not the annex should be appended, any members that wished to deliver statements reflecting their specific comments or suggested changes for the record should do so. If the Committee could not reach agreement on the appending of the annex, then it would be omitted. He nevertheless wished to avoid such an outcome, given the potential usefulness of the annex to the Committee as a reference document.

23. **Mr. Khng** (Singapore) said that paragraph 100 should be amended to reflect the fact that the discussions on draft article 13 had focused on proposals to introduce additional safeguards, rather than on the prohibition of the death penalty per se. The penultimate sentence of that paragraph should therefore be modified to indicate that the Convention against Corruption and the Organized Crime Convention did not exclude the death penalty or provide for such additional safeguards as had been proposed. The last sentence should also be modified to indicate that, having regard to draft article 13, paragraph 7, a prohibition on the death penalty and such additional safeguards as had been proposed should not be included in a future convention.

24. **Ms. Dakwak** (Nigeria) said that in paragraph 30, it was stated that “a suggestion was made to add the slave trade as a crime against humanity, which several delegations either supported or expressed a willingness to discuss further”. That text should be amended to indicate that the suggestion had been made by several delegations. In fact, the Group of African States, in particular, had made several presentations to that end, which could not be characterized as “a suggestion”. Moreover, in the phrase “which several delegations either supported or expressed a willingness to discuss further”, the word “several” should be replaced either by “a few” or by “other”, which would more accurately reflect what had transpired during the discussion. Furthermore, the last sentence, which read: “It was also suggested to add ‘slavery’ as a crime against humanity”, should be modified to read: “Several delegations suggested that ‘slavery’ be added as a crime against humanity”.

25. The first sentence of paragraph 35, which read: “A number of suggestions were made for other underlying acts to be potentially added to draft article 2”, should be amended to read: “A number of suggestions were made for other underlying acts to be potentially added to draft article 2 as crimes against humanity”. In addition, in the first sentence of paragraph 36, the reference to “several delegations” should be changed to “some delegations”. Lastly, the request referred to in the last sentence of paragraph 40, which had been made by her delegation, had not been captured properly. To accurately reflect the intended meaning, instead of saying: “a request was made [...] that States were under an obligation [...]”, it should say: “a request was made [...] that assisting States or States engaged in inter-State cooperation were under an obligation [...]”.

26. **Ms. Sverrisdóttir** (Iceland), co-facilitator, said that the co-facilitators had, in preparing the reports on which the Chair’s summary was based and with the help of the Secretariat, done their best to accurately capture

the comments made by delegations, notwithstanding the difficulty of that task. She also wished to clarify that those reports were under the full responsibility of the co-facilitators rather than the Secretariat.

27. She was grateful to the representatives of Singapore and Nigeria for their constructive remarks and supported the suggestion that they be included in the official summary record. Responding to the comments made by the representative of Nigeria on paragraph 30, she said that the sentence which read: “A suggestion was made to add the slave trade as a crime against humanity, which several delegations either supported or expressed a willingness to discuss further”, had been intended to convey the high degree of positive momentum generated by the proposal. Perhaps replacing the word “suggestion” with “proposal” would have addressed the concern expressed by the representative of Nigeria.

28. **The Chair** said that, although no changes would be made to his summary, the comments of the representatives of Singapore and Nigeria would be duly reflected in the official summary record.

29. **Ms. Dakwak** (Nigeria) said that, in order for her delegation to be able to agree for the annex to be appended, its comments must be accurately reflected therein.

30. **Mr. Pieris** (Sri Lanka) said that a cautious approach should be taken in the drafting of documents for the Committee’s consideration. His delegation therefore suggested that the meeting be briefly adjourned to give the Chair the opportunity to adjust the summary to reflect the comments made by the representative of Nigeria. Nothing would be lost if that approach were taken, as Committee members were ultimately responsible to their Governments for fulfilling any obligations arising from their having committed themselves to the text.

31. **Mr. Jaiteh** (Gambia) said that his delegation agreed that all concerns relating to the annex should be addressed before the Committee considered whether or not it should be appended, as, in agreeing for the annex to be appended, delegations would be committing themselves to the document adopted.

32. **Ms. Jiménez Alegría** (Mexico) said that her delegation had reviewed the Chair’s summary and supported it, as it represented a balanced reflection of the deliberations at the two resumed sessions. Mexico also agreed with the suggestion that the meeting be briefly adjourned to address the concerns expressed by delegations.

33. **Ms. Dabo N’diaye** (Mali) said that she agreed that it was important to take into consideration the concerns

expressed by the representative of Nigeria. In addition, during the discussions on the need to take into account certain perspectives, as described in paragraph 14, differing views had been expressed. Although her own delegation had not expressed its views, it had followed the related discussions with interest and requested that they be reflected in the text in a more balanced manner.

34. **Mr. Ikondere** (Uganda) said that he agreed that the concerns expressed by delegations should be addressed in order to ensure that the document was acceptable to all.

The meeting was suspended at 10.55 a.m. and resumed at 11.40 a.m.

35. **The Chair** said that the summary represented his best effort to synthesize the discussions which had taken place at the two resumed sessions. In his view, it was balanced and reflected the diverse positions of delegations. However, having re-examined the text in the light of the statements made before the suspension, he had decided to make two technical adjustments to the text.

36. First, in paragraph 30, the entire second sentence would be replaced with the following: “Several delegations proposed to include the slave trade as a crime against humanity”; and the last sentence would be amended to read: “Several delegations also suggested to add ‘slavery’ as a crime against humanity”.

37. Second, the first sentence of paragraph 35 would be amended to read: “A number of suggestions were made for other underlying acts to be potentially added to draft article 2 as crimes against humanity”.

38. With regard to the comment made by the representative of Singapore concerning paragraph 100, he was grateful that the representative had not insisted on any changes to the text but only that it be clarified that, on the basis of the discussions that had taken place, the reference to the prohibition of the death penalty should be understood as referring to the safeguards that had been mentioned by several delegations.

39. **Mr. Nyanid** (Cameroon) said that, although his delegation recognized that the Chair’s summary was a reflection of the Chair’s own view of the proceedings, it felt it necessary to draw the Committee’s attention to certain aspects of the summary that were not acceptable. In particular, paragraph 14 was unacceptable, because of the reference to the need to integrate a gender perspective. His delegation had indicated unequivocally that humanity should be captured in all its dimensions and not divided by group or subgroup. In addition, the issue of “gender apartheid”, mentioned in paragraph 36,

had not been raised during the main debate; it had only been mentioned during the mini debate, by the delegation of Iceland. His delegation had responded immediately to point out that such a concept was not acceptable. Considering everything that had transpired, his delegation strongly suggested that the Committee take note of, rather than adopt, the annex.

40. **Ms. Essaias** (Eritrea), referring to paragraph 35, said that, to her delegation’s knowledge, no delegation had used the word “potentially” when proposing that other underlying acts be added to the list of crimes in draft article 2. Therefore, her delegation suggested that the word “potentially” be removed, as a technical edit.

41. **Ms. Siman** (Malta), in response to the comment made by the representative of Cameroon, said that the issue of “gender apartheid” had, in fact, been discussed during the main debates, as well as in the mini debates. It had been raised by several delegations, including her own.

42. **Mr. Aref** (Islamic Republic of Iran) said that his delegation had not raised its concerns regarding several elements in the Chair’s summary because it understood that the Chair had sole responsibility for his summary, and that it was for the reference and convenience of delegations only. Nevertheless, his delegation wished to point out that it had concerns, which it reserved the right to reflect in future processes.

43. His delegation agreed with the representative of Eritrea that suggestions had been made for other underlying acts, which according to several delegations included unilateral coercive measures, should be added to draft article 2, not that they should be “potentially added”. His delegation also supported the suggestion made by the representative of Cameroon that the Committee take note of, rather than adopt, the Chair’s summary, given that the summary reflected the Chair’s own view and not the position of the Committee.

44. **Mr. Skachkov** (Russian Federation) said, with respect to paragraph 35, that many delegations had proposed that “unilateral coercive measures”, not “unilateral coercive measures against civilians”, be added to draft article 2. There was perhaps confusion because, in their statements, some delegations had discussed the impact of such measures on civilians.

45. **Mr. Nouh** (Egypt) said that his delegation agreed with the points made by the representatives of Cameroon, Eritrea, the Islamic Republic of Iran and the Russian Federation with respect to comments that had been made but that had not been properly reflected in the Chair’s summary. During the discussion of the draft preamble and draft article 1 (see [A/C.6/78/SR.39](#)), his

delegation had made it very clear that the discussion on the draft articles was without prejudice to the question of the adoption of any final outcome or any other course of action, and that all options should therefore be left open. He had contacted one of the co-facilitators to ask that those comments be included in the final summary, but they were not. In the interests of flexibility, it was therefore appropriate that the Committee not adopt, but rather take note of, the Chair's summary.

46. **Ms. Bhat** (India) said, in connection with the comment made by the representative of Eritrea, that draft article 2, in which the definitions of the acts that constituted crimes against humanity were set out, was very important. There was a need for further deliberations on the acts listed in paragraph 35 and on the suggested additions to the list.

47. **The Chair** said that the diverse positions of delegations would all be reflected in the official summary record. He took it that the Committee wished to take note of the Chair's summary, contained in document [A/C.6/78/L.22/Add.1](#), as orally amended, and as an annex to the draft written summary.

48. *It was so decided.*

49. **The Chair** said that, in the light of the foregoing, the technical report ([A/C.6/78/L.22](#)) would be amended. In paragraph 18, the words "[and adopted]" would be removed. The square brackets around paragraphs 19 and 20 would be lifted, and paragraph 20 would be revised to read: "Also at the 47th meeting, the Sixth Committee adopted the present summary and took note of its annex, pursuant to paragraph 5 of General Assembly resolution [77/249](#)".

50. He took it that the Committee wished to adopt the draft written summary, comprising the technical report and the annex, which would be presented to the Committee for its consideration at the seventy-ninth session, in accordance with General Assembly resolution [77/249](#).

51. *It was so decided.*

52. *The written summary was adopted.*

Completion of the Committee's work for the resumed part of the session

53. After the customary exchange of courtesies, **the Chair** declared that the Sixth Committee had completed its work for the resumed part of the seventy-eighth session.

The meeting rose at 12.10 p.m.