

Cluster 5: Safeguards
(Resumed session 1-5 and 11 April 2024-New York)

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Madam. Chair.

On draft article 5, we are not convinced by the explanations provided in the commentary on the relevance and necessity of provisions addressing *non-refoulement* of persons. As indicated therein, the concept of *non-refoulement* has been addressed in international refugee law and in certain human rights instruments. Incorporation of such concepts simply on the basis of their existence in other instruments may not suffice for supporting these concepts in the context of crimes against humanity.

Along the same lines, we would like to stress that the provisions on *non-refoulement* could lead to arbitrary interpretations that impede effective international cooperation in fighting various forms of other types of crimes as it subjects extradition to arbitrary interpretation of *non-refoulement* and in the form of a ground for refusal of extradition. We note that the preamble of the Draft Articles and its commentary have referred to ending impunity of perpetrators of crimes against humanity,

in fighting other crimes.

Madam. Chair.

As regards draft article 12, my delegation's general recommendation is to leave this topic to the national jurisdiction of States. Without prejudice to this position and our other observations in this relation, we would like to underline that the term "others" in Draft Article 12 faces legal difficulties and could leave the said provision with total ambiguity. It is understood that the proclivity towards adopting certain terms in this document should

be in favor of giving more clarity to the text, not leaving it open to myriads of circumstances and situations.

Moreover, recognition of certain categories under the term “others” and envisioning a distinctive status for these persons in the Draft Articles needs to be reconsidered in depth as the rationale for such fragmentation and establishment of categories of persons has not been sufficiently examined in the commentary.

I thank you.