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“The scope and application of universal jurisdiction”

**Statement by Julia O'Brien
First Secretary (Legal)
Permanent Mission of Australia to the United Nations
on behalf of the CANZ group**

(Check against delivery)

Mr Chair

I have the honour to speak today on behalf of Canada and New Zealand, as well as Australia.

CANZ recognises universal jurisdiction as a well established principle of international law. It vests in every State the competence to exercise criminal jurisdiction over the most serious crimes of international concern, regardless of where the conduct occurs and the nationality of the perpetrator, and irrespective of any other links between the crimes and the prosecuting State.

Universal jurisdiction was first developed at customary international law in relation to piracy to prevent pirates enjoying safe haven on the basis they were ‘hosti humanis generis’, or enemies of all mankind. It has since been extended to include jurisdiction over the crimes of genocide, war crimes, crimes against humanity, slavery and torture. It is the exceptional gravity of these crimes that makes their prevention, prosecution and

punishment a joint concern of all members of the international community. Holding to account those responsible for these crimes is necessary to enhance the rule of law, bring justice to victims, and meaningfully contribute to sustainable peace.

Mr Chair

CANZ maintains that, as a general rule, primary responsibility for investigating and prosecuting serious international crimes rests with the State in which a crime takes place. Each State should prohibit serious international crimes under their domestic law and exercise effective jurisdiction over those crimes when committed on their territory. The territorial State is often best placed to obtain evidence, secure witnesses, enforce sentences and deliver the 'justice message' to perpetrators, and to victims and affected communities. In certain circumstances, the exercise of jurisdiction based on nationality may also be appropriate.

Where a State is unwilling or unable to exercise its territorial or nationality jurisdiction, universal jurisdiction can be an important mechanism through which the international community may take concrete steps to hold perpetrators to account, eliminate safe havens and promote the rule of law.

It is of paramount importance that national courts exercise universal jurisdiction in good faith and consistent with other rules of international law, including fair trial obligations.

Mr Chair

The domestic legislation of Australia, Canada and New Zealand respectively establishes universal jurisdiction in our domestic courts over the most serious international crimes. We acknowledge those States that have provided for universal jurisdiction in their domestic law and encourage those States who have not already done so to provide for universal jurisdiction over this category of crimes. Establishing such jurisdiction sends a unified and unequivocal message to perpetrators, and would-be perpetrators, that grave violations of international humanitarian and human rights law will not be tolerated. We also encourage States to cooperate and consistent with their international obligations and national practice, provide all means of support to each other, including mutual legal assistance, to ensure the expedient and effective investigation and prosecution of individuals responsible for grave crimes.

Mr Chair

We must work cooperatively and collaboratively if we are going to hold perpetrators to account. Universal jurisdiction, when applied appropriately, is an important tool in our justice toolbox and we look forward to continuing our discussions about its scope and application.

Thank you.