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Agenda Item 87: The scope and application of the principle of universal jurisdiction

Statement by Ms. Nadia Kalb

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Mr. Chair,

The principle of Universal Jurisdiction has given rise to many discussions, has raised various concerns and was sometimes also cause for international tensions. Austria supports the concept of universal jurisdiction in the interest of the common fight against impunity for international crimes, however we see a considerable amount of confusion and misapprehension that continue to exist with regard to the concept of universal jurisdiction.

For this reason Austria has on previous occasions **supported a request to the International Law Commission** to embark work on this topic. A profound academic analysis would help to avoid misunderstandings, which continue to arise in relation to the exercise of universal criminal jurisdiction, and would serve to inform a thorough discussion in the 6th Committee. Therefore, Austria welcomes the decision of the ILC to include the topic "Universal criminal jurisdiction" in its long-term programme of work. We are confident that this very important legal issue is in good hands with the International Law Commission. Austria encourages the ILC to take into consideration material already elaborated in the framework of the 6th Committee as well as the views of Member States, as is customary, in various stages of its deliberations. As to the result of the work of the ILC, Austria would favour the elaboration of guidelines to assist states.

Austria shares the view expressed in Annex A to the ILC's report (A/73/10) that it is necessary to elaborate a definition of the concept of universal jurisdiction as well as its scope. We support the idea that the ILC examine all different forms of jurisdiction, including jurisdiction to legislate, to adjudicate and to enforce. In this context, also the **limitations of these forms of jurisdiction** will have to be considered. For example, it is Austria's view that jurisdiction to adjudicate should be restricted to trials in the presence of the accused. Furthermore, the jurisdiction to enforce, which certainly comprises the enforcement of judgments delivered under the universal jurisdiction to adjudicate, finds its limits in the sovereignty of other states.

It is Austria's understanding that universal criminal jurisdiction of states may either be based on a treaty or on customary international law. The concept of universal criminal **jurisdiction of states is to be clearly distinguished from the jurisdiction of international courts and tribunals**, such as the International Criminal Court, the Criminal Tribunals for the Former Yugoslavia and for Rwanda, the Special Court for Sierra Leone, and others. The prosecution of individuals before an international judicial body is not related to the exercise of universal jurisdiction by states. Universal jurisdiction must also be distinguished from the issue of immunity that, if applicable, must be considered separately.

Mr. Chair, Austria looks forward to engaging constructively in consultations on the resolution as well as in the framework of the working group, and also intends to engage on this topic in the framework of our discussions of the Report of the International Law Commission.

Thank you.