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STATEMENT BY
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PERMANENT MISSION OF THE GAMBIA
TO THE UNITED NATIONS

BEFORE THE SIXTH COMMITTEE
77TH RESUMED SESSION OF THE UNITED NATIONS GENERAL
ASSEMBLY

CLUSTER 2
DEFINITION AND GENERAL OBLIGATIONS DRAFT ARTICLES 2, 3
AND 4

NEW YORK, 11th APRIL 2023

Mr. Chair,

I thank you for the opportunity once again to share some views in my national capacity in this cluster on draft article 2, 3 and 4. Draft articles 3 and 4 provide for the obligation to not commit crimes against humanity as well as the obligation to prevent the same. The Gambia welcomes the general obligation placed on states to not engage in acts that constitute crimes against humanity, as well as the obligation to prevent and punish such crimes whether committed in times of armed conflict or not. It is our view that where there are armed conflicts, it is the responsibility of every actor to observe the rules-based order that governs armed conflicts. And we further welcome that no exceptional circumstances can be used as justification to commit crimes against humanity.

The obligation placed on states to prevent crimes against humanity through legislative, administrative, judicial, or other preventive measures, as well as through cooperation with other States and intergovernmental organizations is welcomed. Crimes against humanity are among the most heinous atrocity crimes, as such it is essential that states have a duty to not commit but prevent and punish. Accordingly, the scope and applicability of draft articles 3 and 4 are fit for purpose in our view.

Mr. Chair,

The Gambia is fully committed to the promotion and protection of human rights both domestically and internationally. And our interventions here and in many other fora, confirms our unflinching commitment to the campaign aimed at ending impunity and seeking accountability for victims of human rights abuses whenever and wherever it occur. Our national commitment to the promotion and protection of human rights and dignity wherever, is informed by the values of our belief/faith and culture. Our population is comprised of either Muslim or Christian and we are conservative in nature.

Mr. Chair,

Following our conservative values, The Gambia finds the International Law Commission's (ILC) failure to include the internationally negotiated and widely accepted agreed definition of gender as contained in article 7(3) of the Rome Statute of the International Criminal Court (ICC) unacceptable and therefore, reserved on draft article 2 (1) (h) of crimes against humanity until the definition

provided in article 7 (3) of the Rome Statute is revisited and gender is conceived to mean as man and woman. The rationale provided by the ILC in its report on their 71st session in 2019, that *“article 7(3) of the Rome Statute defines gender as referring to the two sexes, male and female, within the context of society. The term gender does not indicate any meaning different from the above.”* Is unacceptable for my delegation.

In our view, male and female definition of ‘gender’ is not just a social construct but also biological, which goes to the root of creation of man and woman. We do not subscribe to the notion that the definition provided by the Rome Statute in 1998 is decades old and a lot has changed since then and therefore, the world is ready to evolve and accept new meaning.

In the Gambia we see it differently. The definition of gender is nothing else other than man and woman in our understanding, which is deeply informed by the values we draw from science, faith, and culture. I reiterate our call for reconsideration of the Rome Statute definition of gender, which is already an agreed language and maintains consistency between international legal frameworks.

We would like to conclude by providing views on draft article 2 (1) (k) as well as paragraph 3. We call for the deletion of these paragraphs due to ambiguity and lack of clarity, which may lead to future contentious definitions. Finally, we recall the purpose of the resumed sessions, which calls for exchange of substantive views. That said, we welcome the suggestions or proposals to expand the list of crimes under draft article 2 to include other crimes that delegations may deem necessary and relevant. We therefore, support the suggestions made by Cameroon.

Thank you for the opportunity.