



**New Zealand Permanent Mission to the United Nations
Te Aka Aorere**

**United Nations General Assembly: Sixth Committee
Resumed seventy-eighth session (Cluster Two)**

**New Zealand Statement delivered by
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CHECK AGAINST DELIVERY



Thank you Chair.

New Zealand considers that the definition of crimes against humanity in draft article 2 reflects a careful and appropriate balance between competing values. We welcome that draft article 2 draws on the definition of crimes against humanity contained in article 7 of the Rome Statute. We recognise the advantages, including with regard to legal certainty and harmonization, of drawing from the Rome Statute definition.

Noting these benefits, New Zealand nevertheless remains open to adjustments to the definitional language underpinned by broad support, which would ensure that the definition remains fit for purpose in the context of a future convention.

New Zealand supports the inclusion of a “without prejudice” clause in the definition. While article 7 of the Rome Statute does not contain this exact language, we observe that article 10 of the Rome Statute nevertheless states that nothing in the definitional language “shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute”. We therefore consider that the “without prejudice” clause in draft article 2 does not constitute a substantial departure from the Rome Statute’s approach. Further, our view is that the inclusion of the “without prejudice” clause in the definitional language ensures that a future convention will not call into question broader definitions that may exist at international law or national laws.

We note concerns have been raised that the “without prejudice” clause may introduce ambiguity into the definitional language. However, our view is that a future convention which includes this language would establish clear minimum common definitions, while providing the flexibility for States to reflect broader definitions at domestic law.

We support the removal of the definition of “gender” in the definitional language to reflect the evolution of international human rights law and international criminal law since the adoption of the Rome Statute. We continue to remain open to language which is directed towards enhanced prevention and accountability measures for sexual and gender-based crimes.

New Zealand supports the inclusion of the general obligations contained in draft articles 3 and 4.

We welcome the clarification in draft article 3(2) that crimes against humanity are crimes under international law “whether or not committed in time of armed conflict”, where those acts are committed as part of a widespread or systematic attack against any civilian population. This language reflects State practice and jurisprudence, and confirms that crimes against humanity are crimes regardless of the existence of a nexus with armed conflict.

We support the language at draft article 3(3) which makes it clear that no exceptional circumstances may be invoked as a justification for crimes against humanity.

Thank you Chair.