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**Crimes against humanity
(Agenda item 80)
Cluster IV**

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(check against delivery)

Mr. Chair,

Brazil welcomes draft article 13, which addresses the rights, obligations and procedures applicable to the extradition of an alleged offender.

We agree that crimes against humanity should not be considered as a political offence for the purpose of extradition, as per draft article 13(3).

My delegation is also pleased that Article 13 (11) upholds the right of the requested State to refrain from extraditing individuals if there are substantial grounds to believe that they may face punishment based on factors such as gender, race, religion, nationality, ethnic origin, culture, membership of a particular social group, or political opinions.

Brazil recognizes that this provision also safeguards individuals from prosecution or punishment based on their orientation or gender identity.

All the same, we propose enhancements to Draft Article 13. Brazil suggests the addition of a paragraph clarifying that no provision in a future treaty should be interpreted as mandating extradition when individuals are to appear before an extraordinary court.

Additionally, Brazil underscores the importance of ensuring the right to refuse extradition when there are significant concerns that individuals may be subject to punishment inconsistent with their fundamental human rights, such as the death penalty.

In this context, we echo the objection to the capital punishment expressed in several written comments, including those of Ireland, France, Portugal, the Nordic Countries and the European Union.

Article 13(12) sets out the obligation to give due consideration to the request of the State in the territory under whose jurisdiction the alleged offence has occurred.

Brazil believes that this paragraph is of utmost importance to develop a legal framework for inter-State consultations to ensure

that the State with the closest link to the crime has precedence in the exercise of jurisdiction.

In this context, Brazil supports the suggestion submitted by Australia in its written comments to include the state of nationality in article 13(12).

In light of our comments to article 10, we believe that article 13(12), as well as article 9(3) have a complementary role in preventing impunity for crimes against humanity in a manner compatible with the sovereign equality of States.

Finally, it is the understanding of Brazil that article 13(17) is compatible with the right to refuse to extradite one's nationals, in accordance with the respective national law, as provided, for example, in article 5, LI, of the Brazilian Federal Constitution.

Regarding article 14 and the annex, my delegation acknowledges the overall alignment of the language concerning mutual legal assistance with existing international treaties and welcomes the recognition that such assistance should adhere to the conditions specified in the national law of the requested State.

Additionally, Brazil expresses appreciation for the adaptable approach taken by the International Law Commission regarding

the application of the annex, particularly in scenarios where a State is already bound by one or more mutual legal assistance treaties.

This approach holds promise in promoting broad adherence with a future convention among States already bound by other treaties, while also furnishing them with an optional mechanism to reinforce the prevention and punishment of crimes against humanity through mutual legal assistance.

Thank you.