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# UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

UNITED NATIONS GENERAL ASSEMBLY, SIXTH COMMITTEE

CRIMES AGAINST HUMANITY: CLUSTER 5

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Delivered by

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*Check against delivery*

**Thank you Madam Chair.**

1. I will comment on draft Articles 11 and 12.

**Draft Article 11 – Fair Treatment of Alleged Offender**

2. The need to be treated fairly, the right to a fair trial and full protection of one's rights are fundamental tenets of the rule of law. The ability of any person against whom measures are being taken to contest those measures is essential to the proper functioning of justice. As such, we again welcome the Commission's drafting of draft Article 11(1).

*Draft Article 11(2) – Entitlement to visitation and Stateless person and consular access*

3. Draft Article 11(2) concerns the rights of a person in prison, custody or detention in a State that is not their State of nationality. The UK has two short observations on this provision. First, the UK underlines the importance of ensuring that it is fully consistent with Article 36 of the Vienna Convention on Consular Relations, which in general regulates communication and contact between a sending State and its nationals. We agree with the views of several states that the rights set out in the VCCR and specifically Article 36, belong to states rather than individuals.

4. Second, we reiterate concerns, also shared by others, over language in draft Article 11(2)(a), which provides that a state can exercise a consular function over a stateless person. This appears to be novel in international law and it is not clear how this process would work in practice. We would welcome views from other States on whether or not this reference to exercising a consular function over a stateless person should remain.

**Draft Article 12 – Victims, witnesses and others**

5. Let me turn now to draft article 12 concerning victims, witnesses and others.

*Draft Article 12(1)*

6. The UK has previously made some drafting suggestions on draft Article 12(1) including that the UK supports amendments ensuring that victims and survivors are updated on the progress and result of any complaints they have made. The UK would

also add a new 12(1)(c) that would require States to ensure procedures and evidentiary rules that follow international best practice in evidence collection are established, with the objective of avoiding the re-traumatisation of victims. We are aware that other states have also voiced support for that proposal.

7. In regards to draft Article 12(3) the UK is currently considering a form of words, to try ensure that stigma and rejection by one's community, which can often arise in these circumstances, is avoided. The UK would welcome thoughts from others.

*Draft Article 12(1)(b) – Protective measures*

8. Draft article 12(1)(b) sets out certain protective measures that states must take and provides that complainants, victims, witnesses, their relatives, representatives and others shall be protected against ill treatment or intimidation.

9. While the Commentary to draft Article 12 helpfully clarifies at paragraph 11 that: *“The term “ill-treatment” relates not just to the person’s physical well-being, but also includes the person’s psychological well-being, dignity or privacy”*. It would, in our view, be preferable to set that out on the face of the draft Article. It would also be preferable for the draft Articles to emphasise the need for States, when considering the protection of witnesses and victims, to have regard to all relevant factors, including their age, gender, health and the nature of the crime. This is particularly important, as other states have said this morning, where the crime involves sexual or gender violence or violence against children.

10. The UK is of the view that it is important that the rights of the child and others with vulnerabilities are protected in the draft Articles.

Thank you Madam Chair.