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البعثة الدائمة لدولة إريتريا لدى
الأمم المتحدة
نيويورك

PERMANENT MISSION OF THE STATE OF ERITREA TO THE UNITED NATIONS
NEW YORK

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**STATEMENT DELIVERED BY THE DELEGATION OF ERITREA
SIXTH COMMITTEE**

78TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

AGENDA ITEM 80: "CRIMES AGAINST HUMANITY"

11-12 OCTOBER 2023, NEW YORK

Mr. Chair,

At the outset, let me join others in commending the work carried out by the International Law Commission (hereafter, ILC) on this topic. My delegation aligns itself with the statement delivered by the distinguished delegate of Uganda on behalf of the African Group. Eritrea recognizes that crimes against humanity are among the most serious crimes of concern under international law and therefore it is imperative to ensure accountability and put an end to impunity.

My delegation is committed to exploring applicable avenues that promote justice through national legislation, the obligations contained in treaties to which we are State parties, the United Nations Charter, and international law. The ILC's final draft articles on the prevention and punishment of crimes against humanity are an important step in this regard. However, my delegation is of the view that notwithstanding their merits, the Draft Articles remain legally ambivalent and should be reviewed to address Member States' concerns.

My delegation presented its views during the 77th resumed session, last April and we will again engage in the discussions, in detail, during the forthcoming resumed 78th

session, therefore I am going to be confined in our observations on the following points.

Mr. Chair,

First, Eritrea reiterates its reservation about the inclusion of preambular paragraph 7 of the Draft Articles which refers to the definition of crimes against humanity as set forth in Article 7 of the Rome Statute. This is a treaty that does not enjoy universal recognition and by considering it in the Draft Articles we take away the rights of non-State Parties under international law. My delegation is also concerned with the expansion of the scope of the principle of universal jurisdiction through Articles 7 and 9, as the scope and application of this principle are still being discussed within the Sixth Committee. Furthermore, we have reservations about the reference to *jus cogens* norm in the preamble. We are of the view that the explanation given by the ILC in the commentaries as to why crimes against humanity are given peremptory status is limited.

Second, my delegation holds that the Draft Articles do not cover all aspects of crimes against humanity and stresses the need for expansion of the scope of existing crimes in the Draft Articles. What sets crimes against humanity apart from other crimes is merely the fact that these acts are widespread and systematic in nature, organized by a government or other entity exercising political power, and directed against a civilian population. Therefore, my delegation stresses the legal consideration of including other serious crimes, *inter alia*, human trafficking, environmental crimes involving severe environmental damage and serious harm to human beings and other species, the illegal exploitation of natural resources, or the illegal dispossession of land. Similarly, the application of "unilateral coercive measures and sanctions" (hereafter, UCMs) can constitute a crime against humanity as it comprises elements of crime in the terms as provided in the Draft Articles. It should be stressed that UCMs, imposed during peacetime or war, are illicit measures committed in a widespread and systematic manner against a civilian population and in accordance with the policy of a State. Unilateral sanctions are illegal in design and practice with detrimental ramifications on the well-being and development of the civilian population of targeted States.

Third, we are of the view that the primary responsibility for the prevention and punishment of such serious crimes lies within the domestic jurisdiction of States and their institutions, they have the sovereign right to exercise their jurisdiction over crimes against humanity thus perpetrators of these serious crimes should be prosecuted according to the laws of their countries. For that reason, we do see added

value in developing and strengthening national capacities in terms of investigation and prosecution.

Lastly, Eritrea wishes to express that we must ensure that the provisions of the Draft Articles align with the principles enshrined in the UN Charter and international law, in particular, immunities under customary rule, the principles of sovereignty, non-intervention in the internal affairs, political independence, and territorial integrity of States.

Mr. Chair,

In conclusion, my delegation underlines that the scourge of crimes against humanity afflicts every region of the world. Therefore, the primary contribution of this set of Draft Articles should be to promote national prosecution, in the context of positive complementarity. In view of the above-noted anomalies and the diverging views shared by numerous delegations during the 77th resumed session, my delegation stresses that it is too early to call for a diplomatic conference. Therefore, we encourage continuing constructive discussions, in line with the consensus-based tradition of the Sixth Committee.

I thank you, Mr. Chair