



**PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS**

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**STATEMENT BY MR NATHANIEL KHNG,
COUNSELLOR (LEGAL), PERMANENT MISSION OF SINGAPORE
TO THE UNITED NATIONS, FOR CLUSTER 3 DEBATE, ON AGENDA
ITEM 80 ON CRIMES AGAINST HUMANITY, RESUMED SESSION OF
THE SIXTH COMMITTEE,
3 APRIL 2024**

Thank you, Mr Chairperson.

Singapore has comments on draft articles 6 and 7.

2 In relation to draft article 6, Singapore agrees with the clarification in paragraph 31 of the Commentary that draft article 6, paragraph 5 has no effect on the procedural immunity that a foreign State official may enjoy before a national criminal jurisdiction, which continues to be governed by conventional and customary international law. As a number of delegations have similarly indicated, draft article 6, paragraph 5 does not preclude immunity of State officials being raised as a procedural bar to the exercise of foreign criminal jurisdiction over State officials. In our view, this clarification should be set out in the text of the draft article itself to provide legal certainty that the obligation under paragraph 5 addresses only substantive criminal responsibility under national law.

3 Turning to draft article 6, paragraph 7, Singapore agrees that the appropriate penalties for offences under national criminal law is the sovereign prerogative of each State to determine, in conformity with applicable international law, including safeguards of due legal process. In relation to comments concerning the use of capital punishment, it is deeply disappointing that some countries continue to use these discussions on the draft articles to impose their views and values on other countries. This is inappropriate and unnecessary. We object to any suggestion that the draft articles should prohibit the application of the death penalty, and we also reject any insinuation that capital punishment amounts to torture or cruel, inhuman or degrading treatment or punishment. In this regard, Singapore reiterates our principled position, which is also shared by other countries, that international law does not prohibit the use of capital punishment and there is no international consensus prohibiting its use. The lack of consensus against the death penalty is reflected by the significant support for

operative paragraph 1 of General Assembly resolutions 71/187, 73/175, 75/183 and 77/222, entitled “Moratorium on the use of the death penalty”, which reaffirmed the sovereign right of all countries to develop their own legal systems, including determining the legal penalties, in accordance with their international law obligations.

4 In relation to draft article 7, Singapore reiterates that there is a need to clarify how potential conflicts of jurisdiction are to be resolved. In our view, where conflicts of jurisdiction arise, primacy should be accorded to the State that can exercise jurisdiction under draft article 7, paragraph 1. Such a State would have greater interest in prosecuting the offence in question than a custodial State that can only exercise jurisdiction based on paragraph 2 alone.

5 Singapore also reiterates that draft article 7, paragraph 2 provides for a treaty-based jurisdictional link that can only be exercised in respect of nationals of parties to a future treaty, on the basis of the alleged offender’s presence alone when none of the jurisdictional links in paragraph 1 exist. Our understanding is affirmed in the fourth report of the Special Rapporteur. For legal certainty, this important understanding should be incorporated into the text of the draft article.

6 Thank you for your attention.

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