Statement by Ms. Miyoung Song, Director of the Treaties Division, Ministry of Foreign Affairs of the Republic of Korea
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Cluster 4: International Measures (Draft Articles 13, 14 and 15 and the Annex)

Thank you, Mr. Chair,

We believe that, in light of judicial sovereignty and the international scope of the most serious crimes, fostering inter-state cooperation through mechanisms such as extradition and mutual legal assistance is imperative for the effective prosecution and punishment of crimes against humanity.

Turning to extradition, it is important to note that, for the purposes of extradition, paragraph 3 of draft Article 13 explicitly states that an offence related to crimes against humanity shall not be regarded as political offences, which are sometimes used as a justification for denying extradition requests.

It is also noteworthy that the ILC rightly distinguishes the “dual criminality” requirement, commonly included in bilateral or multilateral treaties on extradition, which stipulates that the conduct in question must be criminal under the laws of both the requesting state and the requested state. By contrast, according to the ILC *Commentary*, treaties targeting specific types

of crimes, which obligate states to take necessary measures to establish mandatory offences, typically do not contain a “dual criminality” clause, as seen in the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This is because the offence should already be criminalized under the laws of both state parties to the convention, rendering the “dual criminality” requirement redundant. Our delegation aligns with this reasoning and underscores once again the critical importance of criminalization under national law, highlighting the interconnected and supportive relationship between Clusters 3 (national measures) and Cluster 4 (international measures).

Moving on to draft Article 14 and its annex, we view this article as a means to improve the facilitation of mutual legal assistance between states. Although draft Article 14 introduces contemporary methods such as video conferencing for evidence procurement and forensic evidence collection, we believe that most of its content conforms to the established frameworks of mutual legal assistance treaties. We are still looking at it and could suggest refining certain wordings related to procedures within the draft article to ensure compatibility with existing treaty obligations of states, as rightly indicated in paragraph 7 of draft Article 14.

As for draft Article 15, concerning the settlement of disputes, we believe the progressive approach from negotiation to a compulsory dispute settlement mechanism is logical and aligns with provisions in many treaties and state

practices, including paragraph 3 of draft Article 15 allowing a state to opt out of compulsory dispute settlement. Regarding the question of imposing a time frame for negotiation, we are more inclined to omit a specific deadline, offering states greater flexibility to engage in or seek other means of the peaceful settlement of disputes.

I thank you. /END/