

CLUSTER 2 ±ARTICLES 2, 3 AND 4

ILC DRAFT ARTICLES ON CRIMES AGAINST HUMANITY  
UK POSITION FOR SIXTH COMMITTEE SESSION 10-14 APRIL

Thank you Madam/Mr Chair.

1. The UK will now comment on draft Articles 2, 3 and 4 in turn.

Draft Article 2

2. Starting with draft Article 2, we note that WKH GHILQLWLRQ RI <sup>3</sup>FULP KXP DQLW\` KDV D KLVWRU\ WKDW JRHV EDFN WR WKH & Tribunal established at Nuremberg in 1945. It has been carefully developed over the years since, including by the ILC, the Security Council and the UN more broadly.

3. With this in mind, the UK supports the definition of crimes against humanity that has been used in Article 2 as it is the definition that has emerged from over 75 years of practice, and has been accepted by the 123 States Parties to the Rome Statute following a negotiation that was open to all States. It has also been consolidated by a now large jurisprudence of both national and international tribunals. Indeed, in this respect we note the views of many experts that this definition amounts to a codification of customary international law.

4. That said, we should take the opportunity presented to us by any new convention to reflect on the definition. We do not rule out changes where appropriate but we would approach any changes cautiously and taking into account the impact on international accountability, including on the ICC.

5. Moving onto some of the specific definitions:

Draft Article 2(1)(h) ±persecution

6. We note that persecution only falls within crimes against humanity if connected to another act within draft Article 2(1). This approach is narrower than that taken in the Rome Statute and elsewhere



## CLUSTER 2 ±ARTICLES 2, 3 AND 4

dropped from the draft Articles<sup>3</sup>. The UK therefore welcomes and supports the  
& R P P L V V L R Q ¶ V G H i f u l l r e q u e r e m e n t o f p r e v e n t i o n f o u n d i n t h e R o m e  
Statute within draft Article 2.

Draft Article ¶ 3 and 4 ±General Obligations and the Obligation of Prevention  
Undertaking to prevent

12. The UK considers Articles 3 and 4 to be of vital importance to tackling the  
scourge of crimes against humanity as the aim of all states should be to prevent these  
crimes from occurring in the first place.

13. In particular, the UK welcomes the fact that draft Article 3(1) specifies that each  
State has an obligation not to engage in acts that E T Q q o h r t c l e

