Informal Working Paper prepared by the Chairperson for discussion in the Working Group

1. Definition of the concept of universal jurisdiction:

| (a) The role and purpose of universal jurisdiction | - To combat impunity  
- To protect the rights of victims  
- Achieving international justice/promoting justice |
| (b) Relevant components | Essential elements of a working concept of Universal Jurisdiction  
- Focused on criminal matters.  
- Exercised by national courts/tribunals.  
- Exercised exceptionally/exceptional character.  
- Based on the nature of certain crimes under international law, and not on any other jurisdictional connection to the State exercising universal jurisdiction (including territoriality, nationality, passive personality or protective principles, as recognized under international law) |
| (c) Distinction from other related concepts | Distinct from:  
- Jurisdiction of international criminal courts/tribunals.  
- Obligation to extradite or prosecute (aut dedere aut judicare).  
- Other forms of jurisdiction (including, territoriality, nationality, passive personality or the protective principles, as recognized under international law) |

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1 This Informal Working Paper, prepared by the Chairperson, is for the purpose of facilitating further discussion in the light of previous exchanges of views within the Working Group. It merges various informal papers developed in the course of the work of the Working Group (2011, 2012, 2013, 2014). It is understood that the issues raised in the present document are illustrative, and are without prejudice to future written or oral proposals made by delegations. This document is without prejudice to positions of delegations; does not reflect consensus among delegations; and is expected to be subject to further discussion at a later stage. In developing this document, account has been taken of the sources set out in the “Agreements on methodology” section of the Informal Paper of the Working Group (A/C.6/66/WG.3/1); the informal compilations prepared by the Secretariat (A/C.6/66/WG.3/INF.1 and INF.2); the compilations of information shared by Governments, included in the reports of the Secretary-General on this topic (A/65/181, A/66/93 and Add.1., A/67/116, A/68/113 and A/69/174); and oral statements made by delegations to the Sixth Committee and in the Working Group on this topic. The wording chosen attempts to attain a best-possible balance between precision and flexibility, given the stage of the discussions and it is recognised that the various elements that have been identified are interlinked.

2 Other matters (i.e. universal civil jurisdiction) are not disregarded, but the focus of the Working Group is on universal criminal jurisdiction.

3 The interaction of universal jurisdiction with relevant principles and rules of international law will be addressed in part 3 (“Application”) of the Road Map approved in 2011 (A/C.6/66/WG.3/DP.1).
2. **Scope of universal jurisdiction:**

<table>
<thead>
<tr>
<th>Crimes under universal jurisdiction</th>
<th>This preliminary list is intended to stimulate discussion of the crimes which may be subject to universal jurisdiction.</th>
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</thead>
<tbody>
<tr>
<td>a. Apartheid</td>
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<td>b. Corruption</td>
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<td>c. Crimes against humanity</td>
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<td>d. Crimes against peace/crime of aggression</td>
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<td>e. Enforced disappearances</td>
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<td>f. Genocide</td>
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<td>g. Piracy</td>
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<td>h. Slavery</td>
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<td>i. Terrorism</td>
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<td>j. Torture</td>
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<td>k. Transnational organized crime</td>
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<tr>
<td>l. War crimes</td>
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</tbody>
</table>

3. **Application:**

**a. Conditions for application**
- International law, including the Charter of the United Nations
- *Nulla poena sine lege/nullum crimen sine lege*
- International human rights/IHL obligations
- Immunity
- Discretionary/obligatory nature of the principle

**b. Criteria for exercising jurisdiction**
- Fight impunity
- Avoidance of abuse/ misuse
- Not politically motivated, arbitrary or discriminatory/selective
- Last resort/complementary/exceptional
- Jurisdictional links (with territoriality, nationality, etc.)/conflict of competing jurisdiction
- Consultations among concerned States.

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4 This preliminary list, intended to stimulate discussion of the crimes which may be subject to universal jurisdiction, is organized in English alphabetical order. It is without prejudice to the question of the appropriateness of composing a list at all. The question of the scope of the principle of universal jurisdiction must be constructed on the basis of rights/obligations under treaty law and/or customary international law.

5 It is recognized that there are multiple dimensions to this tier.
| (c) Procedural aspects | - Presence/absence of alleged offender  
- *Ne bis in idem*/double jeopardy  
- Statute of limitations  
- International due process guarantees (including, *inter alia*, the presumption of innocence, the right to a fair trial, the right to minimum trial guarantees in full equality, the right to an adequate and effective appeals process)  
- Establishment of a prima-facie case before proceeding  
- Judicial independence  
- Prosecutorial independence  
- Prosecutorial discretion  
- Challenges of evidence gathering/preservation in the exercise of universal jurisdiction |
| (d) Role of national judicial systems | - Exercisable by national judicial systems  
- Primacy of national justice systems/complementary/role of complementarity  
- Implementation of obligations under international law  
- Necessity for national legislation  
- Relationship between international law and domestic law |
| (e) Interaction with other concepts of international law | - Interaction with immunity  
- Abuse  
- Distinction from *aut dedere aut judicare*  
- Complementary to jurisdiction of international criminal tribunals  
- Role of the settlement of disputes  
- Questions of State responsibility for wrongful acts in the exercise of universal jurisdiction, including, as appropriate, its abuse |
| (f) International assistance and cooperation. | - Mutual assistance and cooperation in criminal matters (investigations, prosecution, evidence, judicial cooperation)  
- Technical assistance and cooperation in the conduct of criminal matters (investigations, prosecution, evidence, judicial cooperation)  
- Extradition |