



PERMANENT MISSION OF SWEDEN
TO THE UNITED NATIONS

New York

The Permanent Mission of Sweden to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to his note LA/COD/59 of 8 January 2010 drawing attention to General Assembly resolution 64/117 of 16 December 2009 entitled "The scope and application of the principle of universal jurisdiction". In response to the Secretary-General's request in the aforementioned note, Sweden would like to provide the following information and observations.

The fight against impunity is a common goal shared by the Member States of the United Nations, with the aim to ensure that individuals who commit international crimes such as genocide, crimes against humanity, war crimes and torture are brought to justice and that redress is provided for the victims.

States have a right and an obligation to either prosecute or extradite persons suspected of having committed genocide, crimes against humanity, war crimes or torture. Rights and obligations regarding prosecution and extradition derive from various legal bases for the exercise of jurisdiction. Far from all indictments against foreign nationals in national fora are based on universal jurisdiction.

The exercise, by a State, of universal jurisdiction, or jurisdiction on other grounds, is a matter of national legislation, within the limits of certain principles of international law. It is of utmost importance that the Rule of Law governs national judicial systems, to ensure an impartial and fair trial for all parties involved in an investigation or prosecution regarding international crimes.

H.E. Mr Ban Ki-moon
Secretary-General of the United Nations
NEW YORK

In the Swedish Penal Code, Chapter 22, Section 6, the offence 'crime against international law' (which corresponds to war crimes) is defined as "a serious violation of a treaty or agreement with a foreign power or an infraction of a generally recognised principle or tenet relating to international humanitarian law concerning armed conflicts". Thus, treaties as well as customary international law concerning international humanitarian law are applicable in the determination of whether the offence 'crime against international law' has been committed.

Sweden can exercise universal jurisdiction over crimes against international law in accordance with Chapter 2, Section 3.6, of the Swedish Penal Code. Sweden can also exercise universal jurisdiction over offences where the least severe punishment prescribed is imprisonment for four years or more (*c.f.* the Swedish Penal Code, Chapter 2, Section 3.7) as, for example, in the case of the crime of genocide. Even though there is no specific provision concerning crime against humanity, such an act can constitute a crime under the Penal Code, as in the case of the offences 'murder' or 'rape'. For such a crime the least severe punishment prescribed is imprisonment for four years. It shall be noticed, however, that, in accordance with Chapter 2, Section 5.2, of the Swedish Penal Code, prosecution of crimes which have been committed outside of Sweden require the authorization of the Swedish Government.

Sweden has ratified the Rome Statute of the International Criminal Court and adopted provisions concerning cooperation with the Court. In order to review Swedish legislation on criminal responsibility for international crimes and jurisdiction over such crimes, the Swedish Government set up the Swedish Commission on International Criminal Law. The Commission has presented a report concerning international crimes and Swedish jurisdiction¹, in which the Commission puts forward a proposal for a new Act on International Crimes and an amendment to the Swedish Penal Code which would explicitly grant universal jurisdiction over new provisions on genocide, crimes against humanity and war crimes. Legislation is at present being prepared in the Ministry of Justice.

¹ *International crimes and Swedish jurisdiction*, Swedish Government Official Report 2002:98.

The Permanent Mission of Sweden to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 29 April 2010

