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(translation)

Statement by Statement by Ms. Ren Xiaoxia
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At the Sixth Committee
of the 67th Session of the UN General Assembly

On Agenda Item 84

The Scope and Application of the Principle
of Universal Jurisdiction

New York, 17 October 2012

Mr. Chairman,

At the outset, I wish to express on behalf of the Chinese government appreciation for the efforts made by this Committee to facilitate and advance the discussion of the issue of universal jurisdiction.

Since the 64th session of the GA in 2009, the Sixth Committee has for three consecutive years debated on the item of "scope and application of the principle of universal jurisdiction". In 2011, in particular, the Sixth Committee of the 66th session of the GA set up a working group for comprehensive discussion of this issue. A number of countries have submitted comments and observations in this regard. Debate over the past few years and written comments by member states demonstrate that there exist various legislative and judicial practices with regard to universal jurisdiction in different countries; and that members of the international community have divergent views with regard to issues such as the definition, legal status, scope and conditions of application of universal jurisdiction. In view of the Chinese delegation, continuous exchange of views on this item will be conducive to bridging the gap between different views.

Mr. Chairman,

China has actively participated in the discussion of the Sixth Committee on the issue of universal jurisdiction and has worked constructively to further deepen relevant discussions. Moreover, the Chinese government submitted written comments on the "scope and application of the principle of universal

jurisdiction" to the GA in April 2010, elucidating China's basic position. Here I would like to take this opportunity to make some follow-up observations and suggestions:

First, universal jurisdiction and the rule of "extradite or prosecute" are two distinct concepts. The exercise of universal jurisdiction only arises in the absence of any link to the place where the crimes were committed, the nationality of any perpetrator, the nationality of the victims or the interest of that state. It is supplementary to territorial, personal and protective jurisdiction of a state.

Secondly, under the current international law, states have the right to exercise universal jurisdiction over piracy on the high seas. Other than that, there are notable differences and divergences among states on whether universal jurisdiction can be applied under other circumstances. Universally recognized rules of customary international law have yet to emerge.

Thirdly, states should exercise universal jurisdiction pursuant to the following conditions. A. Universal jurisdiction could only be exercised over such crimes against common interests of the international community provided for by international treaties and established by universally recognized rules of customary international law. B. Territorial, personal or protective jurisdiction should be given priority over universal jurisdiction. C. The rule of immunity under international law, including immunity enjoyed by state, head of state and state officials, and diplomatic and consular personnel should be respected in judicial proceedings of a state. D. Fundamental principles of international law such as sovereign equality and non-interference in internal affairs should be

respected.

Mr. Chairman,

Universal jurisdiction is a comprehensive issue involving legal, political and diplomatic aspects. It is also a highly controversial issue, on which a common understanding is still far off. Clarifying the meaning of universal jurisdiction and defining the scope of and conditions for its application have an important impact on the prevention of politically-motivated abuse of universal jurisdiction and the stable and healthy development of international relations. China is in favor of establishing a working group by the Sixth Committee at this session to deliberate on the scope and application of universal jurisdiction and is willing to take an active part in its work.

Thank you, Mr. Chairman.