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MISSION TO THE UNITED NATIONS

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(translation)

Statement by Mr. Xiang Xin

Chinese Delegate

At the 68th Session of the UN General Assembly

On Agenda Item 86

Scope and Application of the Principle of Universal Jurisdiction

New York, 17 October 2013

Mr. Chairman,

The Chinese delegation appreciates the efforts made and the progress achieved by the Sixth Committee and its Working Group in the discussion of the issue of universal jurisdiction. We are in favor of the approach taken by the Working Group of limiting the scope of this item to universal criminal jurisdiction of domestic courts.

This is the fifth year that the GA considers the item of universal jurisdiction. The discussions and written comments submitted by member states demonstrate that there are still divergent views among states with regard to the issues of the definition, the scope and the application of universal jurisdiction. The Chinese delegation would like to take this opportunity to further elaborate on our views:

First, on definition. Universal jurisdiction refers to criminal jurisdiction exercised according to the nature of a crime regardless of such related factors as the place where the crime is committed, the nationality of the suspect or the victim, or whether the crime has jeopardized national security or major interest of a state. Therefore, universal criminal jurisdiction is different from both the jurisdiction exercised by international criminal judicial organs and the obligation of a state to "extradite or prosecute" as a means of exercising jurisdiction.

Second, on scope. At present, there is general support for the exercise of universal jurisdiction in case of piracy on the high seas. Apart from this,

some states believe that it may also be applicable to serious violations of the Four Geneva Conventions of 1949 in international armed conflicts, while some other states hold the view that some international crimes stipulated in relevant international treaties should be included in the scope of application. The Chinese delegation believes that the scope of application of universal jurisdiction should first and foremost be based on the practical need of this principle. Since universal jurisdiction is aimed at filling the gaps of territorial, personal and protective jurisdictions of states with a view to eliminating impunity, it is necessary to ascertain whether a crime is already covered by the territorial, personal or protective jurisdictions of a state before deciding if the crime should be included in the scope of application of universal jurisdiction. If a state has already established its jurisdiction, be it territorial, personal or protective, over a crime, the necessity to place this crime in the scope of application of universal jurisdiction requires further study. In addition, the decision on the scope of application of universal jurisdiction should be based on existing customary international law and the provisions of international treaties. The aim of this agenda item should be codification rather than development of existing rules of universal jurisdiction.

Third, on application. In establishing and exercising universal jurisdiction, states should act within the existing international legal framework and abide by the fundamental rules and principles of international law enshrined in the UN Charter, including non-violation of sovereignty and non-interference in internal affairs. They should also

comply with international legal regulations related to immunity, including that of states, state officials including heads of states, and diplomatic and consular personnel. As universal jurisdiction is supplementary in nature, the priority of territorial, personal and protective jurisdictions of a state must be respected. Only in cases where no state has established or exercised territorial, personal or protective jurisdictions can states concerned exercise universal jurisdiction.

Mr. Chairman,

Universal jurisdiction is a sensitive issue of international law with a bearing on the stability and healthy development of international relations and the world order. Improper legislation or application of universal jurisdiction may create negative impacts on international relations and affect normal inter-state exchanges. The Chinese delegation is of the view that the issue of universal jurisdiction should be considered in a prudent and balanced manner and decided by consensus. China supports the continuation of the exchange of views within the framework of the Working Group and is willing to enhance communication with others to bridge differences and work for consensus.

Thank you, Mr. Chairman.