



MALAYSIA

PERMANENT MISSION TO THE UNITED NATIONS



CANDIDATE
to the
UNITED NATIONS
SECURITY COUNCIL
for the term 2015-2016

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**STATEMENT BY
MS. NORSHARIN ALIAS, REPRESENTATIVE OF MALAYSIA**

**ON AGENDA ITEM 86 ENTITLED
“THE SCOPE AND APPLICATION OF
THE PRINCIPLE OF UNIVERSAL JURISDICTION”
AT THE SIXTH COMMITTEE OF THE SIXTY-EIGHTH SESSION OF
THE UNITED NATIONS GENERAL ASSEMBLY
NEW YORK, 17 OCTOBER 2013**

Mr. Chairman,

My delegation wishes to align itself with the statement made by Iran on behalf of the Non-Aligned Movement (NAM). Malaysia records its appreciation to the Secretary-General for preparing the Report on the “Scope and Application of Universal Jurisdiction” (hereinafter referred to as “the Report”), which is a follow-up to the General Assembly resolution 67/98, by which the Secretary-General is requested to prepare a report on the basis of information and observations received from Member States on the scope and application of the principle of universal jurisdiction. In this regard, Malaysia has submitted its report in April 2010 pursuant to General Assembly Resolution 64/117 of 16 December 2009.

2. Malaysia is of the view that the working group of the Sixth Committee should continue to undertake a thorough discussion on the scope and application of universal jurisdiction as it is important for Member States to agree on a definition of universal jurisdiction and the need to distinguish it from other related concepts, such as international criminal jurisdiction, the obligation to extradite or prosecute, as well as other related principles and rules of international law.

3. Malaysia recognizes the attraction of universal jurisdiction in that it provides an opportunity to all states to possess jurisdiction over serious crimes of international concern, at least some perpetrators of such crimes may be prosecuted, thereby providing more deterrence, retribution and condemnation of the crimes.

4. Whilst acknowledging the necessity to punish, deter and condemn crimes that cause enormous human suffering, Malaysia wishes to highlight that universal jurisdiction is not the only avenue for fighting impunity. Prosecution in national courts on the basis of territoriality, nationality, protective and passive personality should remain as the primary consideration. Recourse to international criminal tribunals, permanent or ad hoc, is also suitable alternative to universal jurisdiction.

Mr. Chairman,

5. Malaysia emphasizes that clear criteria which define the concept of universal jurisdiction must be first agreed by the Member States before this matter could be progressed further. In this matter, Malaysia notes and appreciates the efforts of Member States in submitting their comments and observations with regard to the principle.

6. However, Malaysia notes that there has not been a constructive discussion on the ultimate goal of this principle once enforced. Malaysia firmly believes that a uniform view of this concept is imperative to avoid differing standards among Member States in applying the said principle.

7. Although Malaysia is not in favour of an international regulation on the exercise of universal jurisdiction, Malaysia is of the view that States should exercise care and caution when exercising or legislating universal jurisdiction.

8. For Malaysia, any exercise of universal jurisdiction must be based on enabling domestic law. Malaysia already has in place its domestic legal framework which provides for extra-territorial criminal jurisdiction. Of foremost relevance is in relation to terrorism offences whereby section 4 of the Penal Code of Malaysia established the extra-territorial application of the offences while section 22 (a)(v) of the Court of Judicature Act 1964 empowers the courts to take jurisdiction over those offences. In relation to other offences such as trafficking in persons, computer crimes, and money laundering which also give extra-territorial application, the court's jurisdiction is provided therefore under the respective laws.

9. Further, Malaysia also has in place section 127A of the Criminal Procedure Code (CPC) which confers the power to the Attorney General of Malaysia to issue a certificate under section 127A(1)(d) of the CPC which provides extra-territoriality for any offences that threaten Malaysia's security. Malaysia also has in place section 4 of the Strategic Trade Act 2010 which makes provision for extra-territoriality.

Mr. Chairman,

10. As the way forward regarding this agenda, Malaysia reiterates its proposal that since the scope and application of universal jurisdiction is a legal and technical subject matter, a further in-depth study should be entrusted to the International Law Commission (ILC) as permitted under the General Assembly resolution 65/33.

I thank you.