



MALAYSIA

PERMANENT MISSION TO THE UNITED NATIONS

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**STATEMENT BY
MR. SHAHARUDDIN ONN
DELEGATE OF MALAYSIA TO THE UNITED NATIONS
ON AGENDA ITEM 80:
CRIMINAL ACCOUNTABILITY OF UNITED NATIONS OFFICIALS AND EXPERTS
ON MISSION
AT THE SIXTH COMMITTEE OF THE
70TH SESSION OF THE GENERAL ASSEMBLY**

NEW YORK, 16 OCTOBER 2015

Mr. Chairman,

Malaysia associates itself with the statement by Iran on behalf of the Non-Aligned Movement.

2. Malaysia wishes to express its appreciation to the Secretary-General for his report A/70/208 that was prepared pursuant to resolution 69/114. Malaysia notes that paragraph 16 of the resolution requested the Secretary-General to report to the General Assembly at its 70th Session on the implementation of this resolution, in particular with respect to paragraphs 3, 5, 8 and 9.

3. Malaysia notes from the Report that serious efforts are being undertaken in promoting awareness and pro-activeness among Member States with regard to this issue. We regret the reports of incidents of sexual

exploitation and abuse allegedly committed by UN officials and experts on mission.

4. We acknowledge that it is extremely challenging to ensure criminal accountability without the cooperation of the sending State. The work of the General Assembly and its Committees on this issue is therefore of great importance in ensuring that adequate preventive measures are put in place through pre-deployment training as well as awareness regarding the availability of criminal justice mechanisms when such serious crimes occur.

5. We note paragraph 3 of resolution 69/114 which strongly urges States to consider establishing jurisdiction over crimes committed by their nationals while serving as UN officials or experts on mission. Malaysia, in this regard, wishes to highlight that it has jurisdiction over crimes committed by its military personnel, in their capacity as officials and experts on mission, by virtue of the Armed Forces Act 1972. The provisions of this legislation continue to apply to such personnel wherever they may be deployed. This is also provided in the applicable UN Status of Forces arrangements.

6. Malaysia may also claim extra-territorial criminal jurisdiction, in accordance with its laws and the principles of international law, over serious crimes such as terrorism, offences against the State, corruption, money-laundering, drug trafficking and trafficking in persons. Additionally, Section 127A of the Criminal Procedure Code provides that any offence under any other written law, which commission have been certified by the

Attorney General to affect the security of Malaysia, may also have extra-territorial application.

7. Malaysia further supports the call in paragraph 5 of resolution 69/114 for cooperation among States and the UN regarding the exchange of information and facilitation of investigations and prosecutions to ensure that there is no impunity for serious crimes committed by officials and experts on UN missions. Malaysia's Extradition Act 1992 and Mutual Assistance in Criminal Matters Act 2002, together with its network of treaties related to extradition and mutual assistance in criminal matters, provide the legal basis for such international cooperation.

8. Malaysia notes that the Group of Legal Experts has, in its report, proposed the elaboration of a Convention on this issue and, in this regard, prepared a draft Convention for consideration. In the event that it is considered timely and appropriate to pursue the draft Convention, Malaysia is of the view that among the issues that need to be further deliberated in detail include the definitions of the terms to be used throughout the draft Convention, especially in relation to 'serious crimes'; the scope of application; limitation to the types of offences; and the principle of dual criminality.

9. The basis of the definition of 'serious crimes' needs to be clearly determined to ensure consistencies in its scope and application between Member States. Malaysia notes that the draft Convention seeks to do away with the principle of dual criminality. This is despite the fact that the

principle is one of the key requirements to enable mutual assistance or extradition by many Member States.

10. In view of these outstanding issues, Malaysia is of the opinion that further in-depth study is required to determine the feasibility of this draft Convention. Malaysia reiterates its commitment to work together with other Member States and to explore the appropriate mechanisms related to the issue of criminal accountability of UN officials and experts on mission.

Thank you.