

STATEMENT BY

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ON

AGENDA ITEM 87

**“THE SCOPE AND APPLICATION OF THE PRINCIPLE OF UNIVERSAL
JURISDICTION”**

AT THE

SIXTH COMMITTEE OF THE 75th SESSION OF THE

UNITED NATIONS GENERAL ASSEMBLY

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Mr. Chairman,

We thank the Secretary-General for his report A/75/151 on “The scope and application of the principle of universal jurisdiction”.

2. The report which is focused on specific information regarding the scope and application of universal jurisdiction on the basis of relevant national legal rules, applicable international treaties and judicial practice, has been found very useful. It also contains a synopsis of issues raised by various Governments for possible discussion.

3. The principle of universal jurisdiction is a legal principle allowing a state to bring penal proceedings in respect of certain crimes irrespective of the place of the commission of crime and the nationality of the perpetrator or the victim. This principle is an exception to the general criminal law principle of requiring territorial or nationality link with the crime, the perpetrator or the victim. This exception is justified due to the grave nature of the crime which affects the international community as a whole and thereby no safe havens are established for those who commit these grave crimes and escape the criminal proceedings using the loopholes in the general criminal law.

Mr. Chairman,

4. The Crime of piracy is a classic example of universal jurisdiction. For centuries, international community has treated the pirate as a *hostis humani generis*—an enemy of all mankind. The principle of universal jurisdiction is invoked for the prosecution and punishment of the crime of piracy and forms part of customary international law. This universal jurisdiction status of the crime of piracy is codified in the treaty law, namely United Nations Convention on the Law of the Sea (UNCLOS).

5. A careful analysis of state practice and *opinio juris* is needed in order to identify the existence of a customary rule of universal jurisdiction over a particular crime. Treaty obligations to extradite or prosecute should not be conceptualized as, or used to infer the existence of, universal jurisdiction. Treaty based jurisdiction is conceptually and legally distinct from universal jurisdiction proper.

6. The need is to ensure avoidance of the misuse of the principle of universal jurisdiction (in both the criminal and civil matters) in respect of acts that do not legally enjoy such jurisdiction, as much needed conceptual and legal clarity on crimes having universal jurisdiction is yet to emerge.

Mr. Chairman, I thank you.
