

*Permanent Mission of
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The Permanent Mission of Brazil to the United Nations presents its compliments to the Office of the Secretary-General of the United Nations and, with reference to the Note LA/COD/50, dated 31 December 2007, has the honour to forward the comments of the Brazilian Government with respect to the national implementation of the operative paragraphs 3 and 4 of General Assembly resolution 62/63 of 6 December 2007, entitled "Criminal accountability of United Nations officials and experts on mission".

The Permanent Mission of Brazil to the United Nations avails itself of this opportunity to renew to the Office of the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 24 June 2008



**COMMENTS ON THE IMPLEMENTATION IN BRAZIL OF GENERAL
ASSEMBLY RESOLUTION 62/63 OF 6 DECEMBER 2007 ON THE “CRIMINAL
ACCOUNTABILITY OF UNITED NATIONS OFFICIALS AND EXPERTS ON
MISSION”**

The Government of Brazil attaches great importance to the fight against impunity. The United Nations has to be above any suspicion in order to maintain its credibility and effectiveness on the ground. All Member States need to make every effort to guarantee that those who work for the Organization fully observe international law and, where applicable, domestic laws of the country where they are posted. As a fundamental step in that direction, the Brazilian Government welcomes the adoption of resolution 62/63 by the United Nations General Assembly.

In conformity with operative paragraph 3 of resolution 62/63, the UN General Assembly strongly urged all States to consider establishing to the extent that they have not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State.

As regards the implementation of the previously mentioned provision in Brazil, article 7, II, *b*, of the Penal Code (Statute 2848/1940, as amended by Statute 7209/1984) establishes the domestic jurisdiction over all crimes allegedly committed by Brazilian nationals, regardless of the place where the crime may have been committed and of the gravity of the alleged crime. It provides for the application of the internal criminal legislation to all nationals. In accordance with the Penal Code, Brazil has also jurisdiction over crimes which the country is obliged to combat in light of international conventions, even when the crime may have happened in the territory of another State. These provisions are applicable to all Brazilians, including the ones serving as United Nations officials or experts on mission.

In respect of operative paragraph 4 of UN General Assembly resolution 62/63, regarding cooperation among States and between a State and the United Nations, Brazil has already entered into a number of bilateral agreements on judicial cooperation and mutual assistance in criminal matters. Brazil is determined to continue to cooperate closely with the United Nations, whenever possible, in a wide range of issues, including criminal accountability. As regards due process of law, the principle is enshrined in the Federal Constitution promulgated in 1988 and constitutes a cornerstone for the whole legal system.

Finally, the Brazilian Government looks forward to receiving the report requested to the Secretary-General in operative paragraph 10 of resolution 62/63. The information to be provided by Member States will be useful to identify potential jurisdictional gaps or legal loopholes so that States and the United Nations will be better able to address any specific problems in relation to the fight against impunity in UN missions.