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REF. NO.



PERMANENT MISSION OF KENYA  
TO THE UNITED NATIONS  
866 UNITED NATIONS PLAZA, ROOM 304  
NEW YORK, N.Y. 10017

The Permanent Mission of the Republic of Kenya to the United Nations in New York presents its compliments to the United Nations Secretary-General, and in reference to Note LA/COD/50 dated 31<sup>st</sup> December 2007, has the honour to inform of Kenya's position on implementation of paragraphs 3 and 4 of resolution 62/63 as hereunder: -

The Government of Kenya supports the efforts by the United Nations to ensure that UN Officials and Experts on Mission save for (Military members of the national contingents who are subject to the exclusive jurisdiction of the sending State) adhere to and maintain high standards of discipline and integrity while on United Nations mission.

Concerning the implementation of the Para. 3 of Resolution 62/63, the Government of Kenya has in place the Sexual Offences Act and Anti-Corruption and Economic Crimes Act, the two sets of legislation criminalizes any act of sexual offence and corruption by whom ever within the territory of Kenya respectively.

Considering that no convention has been passed enlisting the crimes for which these UN officials and experts on mission should be charged for, the Government of Kenya has hitherto upheld and believed in the principle of "*aut dedere, aut judicare*" the obligation "*to prosecute or extradite*". As such, for those heinous crimes committed by UN officials and experts on mission within Kenya and no domestic law exist in that respect, the Government may extradite that officer to face prosecution in his/her country where the official can be prosecuted.

The Government of Kenya is keen on enforcing the international criminal law principle of territoriality, as such any crime committed within Kenya by any UN official or expert on mission shall be tried locally provided the domestic laws exists on that. It shall also apply the principle of nationality to prosecute its nationals who commit crimes outside Kenya while serving either as UN officials or experts on mission.

On the implementation of Para 4, the Government of Kenya has signed Mutual Legal Assistance Bilateral Agreements with various countries so as to facilitate cooperation in criminal investigations and possibility of extradition for the suspects to face criminal charges in their mother country.

**The Government of Kenya shall endeavour to promulgate legislations to address the gaps existing in its criminal justice system so that any crime committed by any UN officials and experts on mission within Kenya or by Kenyan citizens serving in such capacity in any country do not go unpunished.**

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

**15<sup>th</sup> July 2008 - New York**

United Nations Secretary-General  
UN Headquarters  
New York

