



07/08/28

The New Zealand Permanent Mission to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to enclose its response to the request for information in the letter of 31 December 2007, LA/COD/50 regarding implementation of paragraphs 3 and 4 of Resolution 62/63 entitled "Criminal Accountability of United Nations officials and experts on mission".

The New Zealand Permanent Mission to the United Nations takes this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New Zealand Permanent Mission to the United Nations

NEW YORK

22 July 2008



UN General Assembly Resolution 62/63 of 6 December 2007, entitled "Criminal Accountability of United Nations officials and experts on mission"

New Zealand response

This information is provided to assist the Secretary-General in reporting to the General Assembly on the implementation of Resolution 62/63 entitled "Criminal Accountability of United Nations officials and experts on mission" as required by operative paragraph (OP) 10 of that resolution and, in particular, in response to the request for information in the letter of 31 December 2007, LA/COD/50, regarding implementation of paragraphs 3 and 4 of that Resolution.

Operative Paragraph 3

OP 3 strongly urges all States to consider establishing jurisdiction over crimes of a serious nature, committed by their nationals while serving as UN officials or experts on mission.

New Zealand position

New Zealand has legislation enabling New Zealand courts to exercise jurisdiction in some circumstances for crimes committed by New Zealand nationals while serving overseas as UN officials or experts on mission (which may include military observers and civilian police).

The Armed Forces Discipline Act 1971 provides jurisdiction over all acts carried out by members of the New Zealand Defence Force done or omitted whether in New Zealand or elsewhere, and applies equally to members of the New Zealand Defence Force who are members of a UN force.

The United Nations (Police) Act 1964 provides for jurisdiction over members of the New Zealand Police forming part of a UN force. Section 4(1) of the Act provides that:

"where any member of the Police does or omits any act.,,and that act or omission would, if it occurred in New Zealand, be a crime under any enactment.,,he commits a crime and is liable to be proceeded against and punished in the same manner in all respects as if the act or omission had occurred in New Zealand; and the Courts of New Zealand shall have jurisdiction accordingly."

The Crimes and Misconduct (Overseas Operations) Act 2004 has the same effect, and applies to any person who is not a member of the armed forces and not already covered by the United Nations (Police) Act 1964 and is serving as part of an "overseas operations force" outside New Zealand. For the purposes of the Act, an overseas operations force is authorised or required by the Government of New Zealand to participate in duties overseas involving peacekeeping, the maintenance or restoration of law and order or functioning

government institutions, or similar activities, and may include both UN and non-UN operations.

New Zealand has no legislation that specifically provides for criminal jurisdiction to be taken over New Zealand nationals serving as UN officials or experts on mission in their personal capacity without the authorisation of the Government of New Zealand. These individuals are, however, still subject to New Zealand law to the extent that it provides for extra-territorial jurisdiction for certain offences.

A table of New Zealand legislation listing offences that have some aspect of extraterritoriality is provided in Annex I of this letter. In many cases extraterritorial jurisdiction has been taken in order to implement particular international obligations. Examples include terrorism offences, genocide, piracy, torture, crimes against humanity, grave breaches of the Geneva Conventions or First Protocol, and other war crimes. Other serious crimes for which New Zealand has extra-territorial jurisdiction include certain sexual offences and sexual exploitation of children, human trafficking, and bribery and corruption.

This means that New Zealand courts have jurisdiction over some, but not all, "serious crimes" committed by New Zealand nationals outside New Zealand while serving as UN officials or experts on mission in their own capacity,

In summary, New Zealand has broad jurisdiction over nationals who commit offences while serving overseas serving as UN officials or experts on mission in peacekeeping, police or operations with the authorisation of the Government of New Zealand. However, where a person is working for the United Nations in his or her own capacity there is more limited coverage. New Zealand will study further the extent to which it might assert jurisdiction over a wider range of serious crimes committed by nationals serving as UN officials or experts on mission in their own capacity,

Operative Paragraph 4

OP 4 encourages all States to cooperate with each other and with the United Nations in exchange of information, and in facilitating the conduct of investigations and prosecution of UN officials and experts on mission, who are alleged to have committed crimes of a serious nature, in accordance with their domestic laws and applicable UN rules and regulations.

New Zealand position

New Zealand cooperates with other States in exchanging information and facilitating criminal investigations and prosecutions under the framework provided by the Mutual Assistance in Criminal Matters Act 1992. The Act does not cover mutual assistance between New Zealand and international organisations such as the United Nations but it does not limit the ability of New Zealand authorities to assist and facilitate requests from the United Nations to the extent that assistance can be given under general New Zealand

law. As a result, the New Zealand Government has in the past provided information to assist UN investigations, and will continue to do so as appropriate-

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New Zealand Ministry of Foreign Affairs and Trade
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Annex I

New Zealand legislation	Offence with extra-territorial application
Aviation Crimes Act 1972	s3 Hijacking s4 Crimes in connection with hijacking s5 Other crimes relating to aircraft sSA Crimes relating to international airports s11 Taking firearms, explosives, etc, on to aircraft
Armsd Forces Discipline Act 1971	s4 Provides for extra-territoriality
Chemical Weapons (Prohibition) Act 1996	s6 Chemical weapons s8 Riot control agents s9 Schedule 1 toxic chemicals s10 Imports and exports of toxic chemicals andjsrecursqrs
Crimes Act 1961	s7A any offence against this Act committed in the course of carrying out a terrorist act s 8 Jurisdiction in respect of crimes on ships or aircraft beyond New Zealand s8A Jurisdiction in respect of certain persons with diplomatic or consular immunity s73 Treason s77 Inciting to mutiny s78 Espionage s78A Wrongful communication, retention, or copying of official information s92 Piracy s93 Piratical acts s94 Punishment of piratical acts s95 Attempts to commit piracy s96 Conspiring to commit piracy s97 Accessory after the fact to piracy s98 Dealing in slaves s98AA Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour s98A Participation in organised criminal group 598C Smuggling migrants s98D Trafficking in people by means of coercion or deception s1D0 Judicial corruption s101 Bribery of judicial officer, etc s102 Corruption or bribery of Minister

	<p>of the Crown</p> <p>s103 Corruption and bribery of Member of Parliament</p> <p>s104 Corruption and bribery of law enforcement officer</p> <p>s105 Corruption and bribery of official</p> <p>s105C Bribery of foreign public official</p> <p>s105D Bribery outside New Zealand of foreign public official</p> <p>s116 Conspiring to defeat justice</p> <p>s117 Corrupting juries and witnesses</p> <p>s131B Meeting young person under 16 following sexual grooming, etc</p> <p>s144A Sexual conduct with children and young people outside New Zealand</p> <p>s243 Money laundering</p>
Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980	<p>s3 Crimes against persons</p> <p>s4 Crimes against premises or vehicles</p> <p>s5 Threats against persons</p> <p>s6 Threats against premises or vehicles</p> <p>s8 hostage-taking</p>
Crimes and Misconduct (Overseas Operations) Act 2004	s5 Jurisdiction over police and civilian members of overseas operations force
Crimes of Torture Act 1989	<p>s3 Acts of torture</p> <p>S 14 Application of certain provisions of Crimes Act 1961</p>
Geneva Conventions Act 1958	s3 Punishment for grave breaches of Conventions or First Protocol
International Crimes and International Criminal Court Act 2000	<p>s9 Genocide</p> <p>s10 Crimes against humanity</p> <p>s11 War crimes</p>
Mercenary Activities (Prohibition) Act 2004	<p>s7 Recruiting person to be mercenary</p> <p>s8 Using mercenary</p> <p>s9 Financing mercenary</p> <p>s10 Training prospective mercenary</p> <p>s11 Training mercenary</p> <p>s12 Mercenary taking part in hostilities or concerted act of violence</p>
Misuse of Drugs Act 1975	s12C Commission of offences outside New Zealand
New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987	s5 Prohibition on acquisition of nuclear explosive devices
Nuclear-Test-Ban Act 1999 (not yet in force)	s6 Prohibitions and offences also apply to certain cases outside New Zealand
Terrorism Suppression Act 2002	<p>57-13, 13B-13E</p> <p>s14 Offences also apply in certain</p>

	cases outside NZ 15 Offences apply to acts outside New Zealand by New Zealand citizens or on New Zealand aircraft and ships
United Nations Convention on the Law of the Sea Act 1996	s9 Application of criminal and civil law
United Nations (Police) Act 1964	s4 Trial in New Zealand in respect of crimes committed outside New Zealand