

Translated from Spanish

Mexico

Comments of the Government of Mexico in regard to paragraphs 3, 4 and 5 of General Assembly resolution 63/119 entitled “Criminal accountability of United Nations officials and experts on mission”.

1. Criminal legislation makes no special reference to the criminal accountability of United Nations officials and experts on mission, whether Mexican nationals or foreign nationals.

2. Notwithstanding the above, if a foreign national who is a United Nations official or expert on mission and has committed a crime of a serious nature is inside Mexican territory, the Federal Criminal Code applies, pursuant to the provisions of article 2, paragraph I thereof:

“I. To crimes initiated, prepared or committed abroad when they produce or are intended to produce effects within the territory of the Republic; or to crimes initiated, prepared or committed abroad, provided that a treaty binding upon Mexico sets forth the obligation to extradite or prosecute, that the requirements set forth in article 4 of this Code are met and that the alleged perpetrator is not extradited to the requesting State.”

Under article 4 of the above-mentioned Code, crimes committed abroad by a Mexican national against Mexican or foreign nationals or by a foreign national against Mexican nationals shall be punishable in Mexico provided that the following conditions are met:

I. The accused is inside the Republic;

II. A final verdict has not been rendered in the country where the crime was committed; and

III. The offence with which the accused is charged is considered a crime both in the country where it was committed and in Mexico.

3. Article 7 of the Federal Code of Criminal Procedure provides that the Mexican federal courts have jurisdiction over crimes committed abroad if the Federal Criminal Code is applicable pursuant to the above-mentioned articles 2 and 4, and that the competent court is the one in whose territorial jurisdiction the accused is located. If the accused is located abroad, the competent court will be a court of equal standing in the Federal District, before which the Public Prosecutor will bring the criminal action, either for extradition or for the prosecution and disposition of the case.

Likewise, the Federal Judicial Authority Organization Act (article 50, paragraphs I and II) establishes the jurisdiction of federal judges over the crimes referred to in the Federal Criminal Code (articles 2 and 4). Furthermore, those judges are competent to hear extradition proceedings.

4. As regards paragraph 5 (a) of the resolution in question, with respect to extradition, the third paragraph of article 119 of the Political Constitution of the United Mexican States establishes that requests for extradition shall be processed by the Federal Executive, through the judicial authority, and that they must be dealt

with in accordance with the Constitution, relevant existing international treaties and regulatory acts. If there is no extradition treaty, the rules contained in the International Extradition Act shall apply. Mexico is currently a party to 26 extradition treaties.

5. In regard to the legal assistance in criminal matters referred to in paragraphs 4 and 5 of the resolution, Mexico has concluded 30 treaties on this subject with different States. Those treaties are important instruments for international cooperation in this regard, whether for the exchange of information, the conduct of investigations or the prosecution or extradition of the alleged perpetrators of crimes of a serious nature.

As shown by the above-cited provisions, current legislation in this area enables Mexico to comply with the provisions of paragraphs 3 to 5 of the resolution in question, whether the accused is a Mexican or a foreign national.
