
[Translated from Chinese]

Information on implementation by the Chinese Government of General Assembly resolution 64/110 on criminal accountability of United Nations officials and experts on mission

The Government of the People's Republic of China,

Referring to the resolution of the sixty-first session of the General Assembly to establish a special committee to study the issue of how to enforce the criminal accountability of United Nations officials and experts on mission;

Noting the resolution of the sixty-fourth session of the General Assembly entitled "Criminal accountability of United Nations officials and experts on mission" (General Assembly resolution 64/110), that requests the Secretary-General to report to the General Assembly at its sixty-fifth session on the implementation of that resolution;

Acknowledging receipt of the letter dated 8 January 2010 from the Secretariat addressed to its Permanent Representative regarding the foregoing;

Hereby submits the following information for the reference of the Secretary-General:

1. Article 6 of the Criminal Law of the People's Republic of China provides that "This Law shall be applicable to anyone who commits a crime within the territory ... of the People's Republic of China, except as otherwise specifically provided by law"; article 7 of that Law provides that "This Law shall be applicable to any citizen of the People's Republic of China who commits a crime prescribed in this Law outside the territory ... of the People's Republic of China; however, if the maximum punishment to be imposed is fixed-term

imprisonment of not more than three years as stipulated in this Law, he may be exempted from investigation for his criminal responsibility. This Law shall be applicable to any State functionary or serviceman who commits a crime prescribed in this Law outside the territory ... of the People's Republic of China." Accordingly, China has jurisdiction in cases of serious violations of the provisions of the Criminal Law of the People's Republic of China by Chinese citizens during their terms of service as United Nations officials or experts on mission.

2. The Chinese judicial authorities will investigate and prosecute United Nations officials or experts on mission suspected of serious crimes in accordance with the provisions of the Criminal Procedure Law of the People's Republic of China, the Extradition Law of the People's Republic of China, and the Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities, and in accordance with applicable arrangements for cooperation with foreign and United Nations authorities. The Chinese Government will also abide by the provisions of international treaties to which China is already a party, including the Vienna Convention on Diplomatic Relations and the Convention on the Privileges and Immunities of the United Nations. If the body investigating and prosecuting United Nations officials or experts on mission suspected of serious crimes is an international judicial body, the prerequisites for China's cooperation with that body are that China be a party to an applicable international treaty or obligated to implement an applicable resolution, or that it agree to bear the obligation to cooperate on a case-by-case basis.

3. China has signed many bilateral treaties on judicial assistance in criminal cases and on extradition, and is a party to the United Nations Convention against Corruption, the

United Nations Convention against Transnational Organized Crime, and other such international instruments. When investigating and prosecuting crimes by United Nations officials or experts on mission, the Chinese Government may apply those instruments to cooperate with foreign countries in legal assistance and extradition matters. Where no such treaty relations exist, the Chinese Government can cooperate on a reciprocal, case-by-case basis in accordance with the Criminal Procedure Law of the People's Republic of China and the Extradition Law of the People's Republic of China.

4. In accordance with the provisions of the Criminal Procedure Law of the People's Republic of China, all facts that have been legally collected and that prove the true circumstances of a case can be used as evidence in a criminal proceeding. Information and materials used as evidence must be verified by a court of law before it can be used to decide a case. In criminal proceedings initiated in accordance with Chinese law with regard to serious crimes committed by United Nations officials or experts on mission, information and materials obtained from the United Nations may be used in evidence if it conforms to the provisions of the Criminal Procedure Law of the People's Republic of China.

5. Under the provisions of the Criminal Procedure Law of the People's Republic of China, the Criminal Law of the People's Republic of China, and the Extradition Law of the People's Republic of China, victims and witnesses in criminal cases are protected by law. These laws also protect the right of criminal suspects to due process, such as obtaining legal assistance, engaging defence counsel, and petitioning for recusal [of officials owing to conflict of interest].
