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PERMANENT MISSION OF THE REPUBLIC OF ESTONIA
TO THE UNITED NATIONS

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The Permanent Mission of Estonia to the United Nations presents its compliments to the Secretary-General of the United Nations and with the reference to the Secretary-General's letter LA/COD/50 of 8 January 2010 concerning paragraphs 3, 4, 5 and 14 of the General Assembly's resolution 64/110 of 16 December 2009, entitled "Criminal accountability of United Nations officials and experts on mission", Estonia would like to inform the Secretary-General of the following:

According to the Penal Code the penal law of Estonia is applicable if a crime is committed outside Estonian territory and the following requirements are fulfilled:

"§ 7. Applicability of penal law by reason of person concerned

(1) The penal law of Estonia applies to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and is punishable at the place of commission of the act, or if no penal power is applicable at the place of commission of the act and if:

1) the act is committed against a citizen of Estonia or a legal person registered in Estonia;

2) the offender is a citizen of Estonia at the time of commission of the act or becomes a citizen of Estonia after the commission of the act, or if the offender is an alien who has been detained in Estonia and is not extradited.

(2) The penal law of Estonia applies:

1) to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and the offender is a member of the Defence Forces performing his or her duties;

2) to giving bribe or granting of gratuities to a foreign official, or influence peddling by a foreign official, or any offence connected to these offences, if committed by a citizen of Estonia, or an alien who has been detained in Estonia and is not extradited, or a legal person registered in Estonia.

His Excellency
Secretary-General
of the United Nations
New York

Thus the Estonian criminal jurisdiction with respect to its nationals who commit serious crimes outside the territory of Estonia is established by the Penal Code. Estonia fully supports the United Nation's zero-tolerance policy with respect to serious crimes committed by its officials and experts on mission.

The modes of international cooperation have been provided for in the Code of Criminal Procedure, e.g. principle of cooperation – section 433, extradition – section 439, surrender of persons – section 491. However, if a rule of national law should be contradictory to a provision of an international commitment, the latter prevails (section 433 (2) of the Code of Criminal Procedure).

Estonia has a right to refuse to engage in international cooperation if:

- 1) it may endanger the security, public order or other essential interests of the Republic of Estonia;
- 2) it is in conflict with the general principles of Estonian law;
- 3) there is reason to believe that the assistance is requested for the purpose of bringing charges against or punishing a person on account of his or her race, nationality or religious or political beliefs, or if the situation of the person may deteriorate for any of such reasons.

According to section 435 (1) of the Code of Criminal Procedure, the Ministry of Justice is the central authority in the matters of international cooperation concerning penal law.

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

New York, 7 July 2010

