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*Translated from Spanish*

## **Ministry of Foreign Affairs**

Mexico City, 3 May 2018

### **Submission of Mexico regarding the implementation of the resolution on criminal accountability of United Nations officials and experts on mission**

We hereby submit the response of Mexico to the following request, made by the Office of Legal Affairs of the United Nations Secretariat, in accordance with General Assembly resolution 72/112 on the criminal accountability of United Nations officials and experts on mission:

“The Office of Legal Affairs of the United Nations would appreciate receiving, by 1 June 2018, any information and observations that Governments may wish to submit on their implementation of the resolution, in particular, paragraphs 10, 12, 13, 15, 18 and 20 thereof, as well as any practical problems in the implementation of the resolution.”

10. Strongly urges all States to consider establishing, to the extent that they have not yet done so, jurisdiction over crimes, particularly those of a serious nature, as known in their existing national criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State, and, further, urges States and appropriate international organizations to provide technical and other appropriate assistance in developing such legal measures to States requesting such support;

- Mexican law makes no special reference to the criminal accountability of United Nations officials and experts on mission. However, article 4 of the Federal Criminal Code<sup>1</sup> provides that crimes committed abroad by a Mexican against Mexicans or against foreigners or by a foreigner against a Mexican shall be punishable in Mexico if the following conditions are met: (i) the accused is present in Mexican territory; (ii) a final ruling has not been handed down; and (iii) the offence of which the person is accused is classified as a crime in the country in which it was committed and in Mexico (double criminality).

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<sup>1</sup> Available at [http://www.diputados.gob.mx/LeyesBiblio/pdf/9\\_090318.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/9_090318.pdf).

- Mexico is in favour of States abiding by the General Assembly's call to establish criminal jurisdiction over crimes of a serious nature committed by their nationals while serving as United Nations officials or experts on mission.
- Existing State jurisdiction is vital, particularly in the continued absence of a convention on the subject. Mexico believes that an instrument would be extremely useful in establishing an international treaty regime that obliges States to prosecute or extradite persons accused of such crimes and to extend cooperation and mutual legal assistance to that end.
- In keeping with the United Nations zero-tolerance policy on sexual exploitation and abuse, our country is convinced that such situations cannot and should not be allowed to happen under any circumstance, let alone with impunity.

12. Encourages all States: (a) To afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission, including assistance in obtaining evidence at their disposal, in accordance with their national law or any treaties or other arrangements on extradition and mutual legal assistance that may exist between them; (b) In accordance with their national law, to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission, bearing in mind due process considerations; (c) In accordance with their national law, to provide effective protection for victims of, witnesses to and others who provide information in relation to crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission and to facilitate access of victims to victim assistance programmes, without prejudice to the rights of the alleged offender, including those relating to due process; (d) In accordance with their national law, to explore ways and means of responding adequately to requests by host States for support and assistance in order to enhance their capacity to conduct effective investigations in respect of crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission.

- Mexico will respond to all requests for support and assistance submitted by receiving States, either by means of a treaty or on the basis of the principle of reciprocity, concerning crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission.

- In order to expedite international cooperation, Mexico is currently a party to 34 bilateral treaties<sup>2</sup> on mutual legal assistance and extradition and several multilateral treaties on the subject.
- The Office for Legal and International Affairs of the Office of the Attorney General of the Republic is responsible for guiding Mexican efforts in the area of the administration of justice at the international level, and for monitoring the implementation of treaties and instruments that involve legal assistance and extradition.
- For its part, the General Victims Act, which entered into force on 9 January 2013<sup>3</sup>, requires all government authorities and constitutional organs, in addition to any government offices, agencies, entities or public or private institutions responsible for protecting victims, to provide them with support, assistance and/or comprehensive reparation. Guided by the principles of protection, necessity and proportionality, confidentiality and timeliness, and effectiveness, the Act establishes protective measures to be taken in cases in which the victim's personal integrity or life are under threat. With regard to assistance, the Act provides for the establishment of a national victims registry, whereby victims are granted timely and effective access to aid, assistance, care, justice and the comprehensive reparation enshrined in the Act.

13. Requests the Secretariat to continue to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and behaviour and be aware that certain conduct may amount to a crime for which they may be held accountable, and also requests that the Secretariat take all appropriate measures to continue to ensure that all such personnel, as well as United Nations officials, are properly vetted by the States contributing personnel and by the Organization for any prior misconduct while serving with the United Nations.

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<sup>2</sup> Argentina (2013), Australia (1991), Belgium (1939), Bolivia (2013), Brazil (1938), Canada (1991), Chile (1997), China (2012), Colombia (1937), Costa Rica (2013), Cuba (1930), Ecuador (2007), El Salvador (1998), France (1995), Germany (1956), Greece (2005), Guatemala (2005), India (2009), Italy (1889), Netherlands (1909), Nicaragua (1998), Panama (2008), Paraguay (2007), Peru (2001), Portugal (2000), Republic of Korea (1998), Spain (1980), United Kingdom of Great Britain and Northern Ireland (1889), United States of America (1991), Uruguay (2005), Venezuela (2005).

<sup>3</sup> Available at [http://www.diputados.gob.mx/LeyesBiblio/pdf/LGV\\_030117.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LGV_030117.pdf).

- Mexico reiterates its firm commitment to human rights and accountability. As a country that only recently joined the ranks of those contributing forces to United Nations peacekeeping operations, Mexico does not yet have national legislation regulating their conduct. Nevertheless, article 61 of the Code of Military Justice<sup>4</sup> provides that “If the army is in the territory of a friendly or neutral power, the regulations stipulated in the treaties and conventions concluded with that power shall be observed with regard to the competence of the military courts”. Similarly, the provisions of the Federal Criminal Code, which grants the Mexican State jurisdiction over offences committed abroad by Mexican nationals, apply to civilian personnel participating in United Nations peacekeeping operations.
- It is worth noting that Mexican personnel serving in peacekeeping operations abide by the standards of respect for human rights and accountability. Moreover, we reiterate the importance of ensuring that peacekeeping staff abide by their obligations in a manner consistent with the Charter of the United Nations, in order to preserve the credibility and impartiality of the Organization.
- Mexico firmly believes in the role of women as the fundamental pillars of each social stratum; as such, they should not be excluded from any stratum. The inclusion of women in the armed forces participating in peacekeeping operations is important, not only in such tasks as nursing or tailoring, which have traditionally – and wrongly – associated with gender roles, but also in such areas as artillery.
- As part of the zero-tolerance measures taken by Mexico related to sexual exploitation and abuse, in 2016 the Protocol to Prevent, Address and Punish Sexual Harassment and Sexual Abuse<sup>5</sup> was issued for the benefit of the entire federal public administration. Backed by the mechanisms for the advancement of women in order to ensure its effective implementation, the Protocol is a very useful tool to regulate the efforts and performance of the Mexican armed forces,
- The Ministry of Defence publishes such guidelines as the Human Rights Primer for the Army and Air Force<sup>6</sup> and the Code of Conduct for Public Servants of the Ministry of

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<sup>4</sup> Available at [http://www.diputados.gob.mx/LeyesBiblio/pdf/4\\_160516.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/4_160516.pdf).

<sup>5</sup> Published in the Official Gazette on 31 August 2016. Available at [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5450530&fecha=31/08/2016](http://www.dof.gob.mx/nota_detalle.php?codigo=5450530&fecha=31/08/2016).

<sup>6</sup> Available at [http://www.sedena.gob.mx/pdf/der\\_hums/bibliografia/11\\_CDDHH.pdf](http://www.sedena.gob.mx/pdf/der_hums/bibliografia/11_CDDHH.pdf).

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Defence<sup>7</sup>. The latter stipulates that military personnel must abide by international practices of respect for human rights, conduct themselves in strict compliance with the legal system under all circumstances and uphold the duty to maintain a healthy work environment free of sexual harassment and sexual abuse.

- On 17 September 2017, Mexico acceded to the voluntary compact between the Secretary-General of the United Nations and Member States on preventing and addressing sexual exploitation and abuse committed by United Nations personnel participating in peacekeeping operations. By doing so, Mexico is publicly sending a strong message of shared commitment and mutual accountability to prevent and address sexual exploitation and abuse in peacekeeping operations.

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<sup>7</sup> Available at [https://www.gob.mx/cms/uploads/attachment/file/110066/CODIGO\\_DE\\_ETICA\\_DEL\\_GOBIERNO\\_FEDERAL.pdf](https://www.gob.mx/cms/uploads/attachment/file/110066/CODIGO_DE_ETICA_DEL_GOBIERNO_FEDERAL.pdf).