



Malaysia

Permanent Mission to the United Nations

STATEMENT BY THE HONOURABLE MR. MATULIDI BIN JUSOH, MEMBER OF PARLIAMENT AND REPRESENTATIVE OF MALAYSIA ON AGENDA ITEM 76: CRIMINAL ACCOUNTABILITY OF UNITED NATIONS OFFICIALS AND EXPERTS ON MISSION AT THE SIXTH COMMITTEE OF THE 65th SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY, NEW YORK, 8 OCTOBER 2010

Mr. Chairman,

Malaysia takes note of the Report of the Secretary-General on this topic (A/65/185) prepared pursuant to resolution 64/110. Malaysia continues to give effect to its obligations under the United Nations Charter and related instruments such as the Convention on the Privileges and Immunities of the United Nations primarily through the International Organisations (Privileges and Immunities) Act 1992 [Act 485] and Regulations made under it.

2. States must agree on the basic principle that criminal acts and misconduct should be addressed with the appropriate criminal and disciplinary sanctions, without glossing over the unresolved issues with regard to the accountability of UN officials and experts on missions, in particular jurisdictional gaps and definitional dilemmas in relation to criminal acts. It is therefore important that investigations and prosecutions should be conducted without delay. Such swift and adequate responses would serve to counter and diminish personnel misbehavior. In this regard, States should not delay in recognizing and utilizing the available domestic mechanisms to effectively deal with officers and personnel of their nationality. Malaysia, as both a sending and receiving State of UN officials and experts on mission, views the issues of accountability as highly relevant.

3. As a consistent supporter of the United Nations' peacekeeping missions and a participant in UN peacekeeping operations of 50 years, Malaysia views with concern any act which tarnishes the noble efforts and sacrifices of UN personnel and experts on peacekeeping and other missions. To promote integrity and credibility among its peacekeeping personnel in the performance of their duties, Malaysia established the Malaysian Peacekeeping Training Centre (MPTC) in 1996. The MPTC has become an internationally-worthy operational and training facility for peacekeepers emphasizing on international humanitarian law and respect for the rule of law.

4. Malaysia continues to support the UN's zero-tolerance policy regarding serious crimes including sexual exploitation and abuse committed by its officials and experts on mission. While training programmes such as those organised by conduct and disciplinary units and focal points of the UN and national authorities are important to create awareness of cultural and gender-sensitive areas, it should be noted that "zero-tolerance" measures must also take into account the root causes of sexual exploitation and abuse, particularly the status and conditions of women and other vulnerable persons and victims in conflict societies where the

occasional abuse of authority by mission personnel can be anticipated. On that note, the UN and national governments should also approach and strive to resolve such fundamental issues in addition to their operational and security objectives in conflict zones.

Mr. Chairman,

5. With reference to paragraph 3 of General Assembly resolution 64/110, Malaysia is able to establish jurisdiction over serious crimes committed by its military and civilian police personnel in their capacity as officials and experts on mission on the basis that the Armed Forces Act 1972 and the Police Act 1967 continue to apply to such personnel wherever they may be deployed. This is also provided in the applicable UN Status of Forces arrangements. In addition, Malaysia may also claim extra-territorial criminal jurisdiction in accordance with its laws and the principles of international law over serious crimes such as terrorism, offences against the State, corruption, money laundering, drug trafficking and trafficking in persons. Malaysia further supports the call in paragraph 4 of General Assembly resolution 64/110 for cooperation among States and the UN in the exchange of information and the facilitation of investigations and prosecutions to ensure there is no impunity for serious crimes committed by officials and experts on UN missions. Malaysia's Extradition Act 1992 and Mutual Assistance in Criminal Matters Act 2002 together with its network of extradition and mutual assistance in criminal matters treaties provide the legal basis for such international cooperation.

Mr. Chairman,

6. Finally, Malaysia reiterates its view that the work of the Group of Legal Experts which had proposed the elaboration of a Convention on this issue and has prepared a draft Convention for consideration in its Report, should not prevent the Sixth Committee's Working Group on Criminal Accountability of UN Officials and Experts on Mission from identifying substantive issues and exploring practicable solutions independent of the proposals in the draft text. This is especially in view that most of the target groups are already adequately regulated by domestic laws and the terms of UN Status of Forces arrangements as well as international humanitarian law.

Thank you.