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*Government Policy — China Supports Mongolia's Nuclear-Weapon-Free Status*

☛ <<http://www.china-un.org/chn/hyyfy/t970361.htm>>

On 17 September 2012, the Chinese Permanent Representative to the United Nations, together with the other four Permanent Representative to the UN (United States, Russia, France, and United Kingdom), signed parallel political declarations with the Mongolian Permanent

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Representative to the UN regarding Mongolia's self-declared nuclear-free status. In the declaration, the five nuclear weapon States reaffirmed the joint statement on security assurance they made in connection with Mongolia's nuclear-weapons-free status at the UN General Assembly in October 2000. They also affirmed their intent to respect Mongolia's nuclear-weapon-free status and not to contribute to any act they would violate it.

*Agreements — China–Laos Memorandum of Understanding on the Provision of Assistance of China to the Laotian Victims of Cluster Munitions*

• *Memorandum of Understanding on the Provision of Assistance of China to the Laotian Victims of Cluster Munitions*

On 11 July 2012, the ministries of foreign affairs of China and Laos signed the *Memorandum of Understanding on the Provision of Assistance of China to the Laotian Victims of Cluster Munitions* [Guanyu Zhongfang xiang Laofang Tigong Jishu Danyao Shouhaizhe Yuanzhu de Liangjie Beiwanglu]. In this Memorandum of Understanding, China solemnly undertakes to continue to support the Laotian government in clearing the landmines, cluster munitions, and other unexploded munitions in Laos.<sup>2</sup>

*Agreements — China–Fiji Agreement on the Cooperation of Red Cross Societies*

On 24 November 2012, the Red Cross Society of China signed a cooperation agreement with the Red Cross Society of Fiji in Suva. The Agreement is based on the fundamental principles of the International Red Cross and Red Crescent Movement and the Strategy 2020 of the International Federation of Red Cross and Red Crescent Societies. The period of the Agreement is five years. The Agreement strengthens mutual assistance and support and provides that the two Societies will exchange information and views on important, common international issues. With respect to humanitarian assistance to vulnerable groups, in the case of natural disasters or emergent incidents, the two Societies, after achieving consensus, will mutually support each other within the scope of their respective capacities and available resources. With respect to human resource cooperation, the two Societies, on the basis of project development and consensus, will disseminate the rules of international humanitarian law and humanitarian values and information regarding red cross youth, disaster reduction against climate change and organization of relevant international activities.<sup>3</sup>

*Legislation — Military Regulations*

• *Regulation on Participation of People's Liberation Army in UN Peacekeeping Operations (Provisional Application)*

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<sup>2</sup> Guoji Rendao Zhuyi Saolei Yuanzhu: Zhongguo zai Xingdong, 'International Humanitarian Landmine Clearance Assistance: China in Action', *Liberation Army Daily* (Jiefangjun Bao), 24 October 2012 <<http://news.xinmin.cn/rollnews/2012/10/24/16842900.html>>.

<sup>3</sup> <[http://news.xinhuanet.com/world/2012-11/24/c\\_113789327.htm](http://news.xinhuanet.com/world/2012-11/24/c_113789327.htm)>.

On 22 March 2012, the Central Military Commission (CMC), China's top military leading organ, adopted the *Regulation on Participation of People's Liberation Army in UN Peacekeeping Operations (Provisional Application)* [Zhongguo Renmin Jiefangjun Canjia Lianheguo Weichi Heping Xingdong Tiaoli (Shixing)].<sup>4</sup> The Regulation is the first special military regulation to regulate the participation of the Chinese army in UN peacekeeping operations. It consists of seven chapters and 37 articles, mainly covering the following aspects.

First, the Regulation provides the scope of tasks of peacekeeping operations. Based on Chinese foreign policy and principles of participation in peacekeeping operations, the Regulation limits peacekeeping operations in which the Chinese army will participate to those within the framework of the UN. The Regulation also stresses the authority of UN Security Council and the dominance of the UN more generally, and clarifies that peacekeeping operations in which the Chinese army participates are mainly responsible for such tasks as separating parties of a conflict, supervising armistice, engineering, transportation, medical guarantee, as well as rescue and relief.

Secondly, the Regulation addresses the organization and command of peacekeeping operations. The Regulation clearly provides that the participation of the Chinese army in peacekeeping operations must be under the uniform command of the CMC, and be planned and guided by the Headquarters, and that every military region and arms and services must be responsible for their corresponding works according to their duties and division of labor.

Thirdly, it provides for the dispatch and withdrawal of peacekeeping operations. The Regulation clarifies the procedure for approval of dispatching troops to participate in peacekeeping operations. It also regulates the formation of troops, selection of members, deployment of troops, and organization and implementation of rotations during the period from dispatch to withdrawal.

Fourthly, the Regulation provides education and training of peacekeepers. It provides for the education and training of peacekeepers in terms of ideological and political education, troops training, military professional personnel training, joint training with foreign troops, and check and examination.

Fifthly, it provides for the management and guarantee of peacekeeping operations. The Regulation clarifies the guarantee duties of every department in peacekeeping operations in accordance with the current provisions relating to logistics and equipment guarantee.

Finally, the Regulation also clarifies discipline, weapons, uniforms, promotion and remuneration.<sup>5</sup>

*Government Policy — Opinions on Promoting the Development of the Red Cross Enterprise*

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<sup>4</sup> <[http://www.chinamil.com.cn/jfjbmap/content/2012-03/23/content\\_1121.htm](http://www.chinamil.com.cn/jfjbmap/content/2012-03/23/content_1121.htm)>.

<sup>5</sup> Answers to the questions raised by the correspondents, Office of Peacekeeping Affairs, Ministry of National Defense, <[http://chn.chinamil.com.cn/wh/2012-05/17/content\\_4864442\\_2.htm](http://chn.chinamil.com.cn/wh/2012-05/17/content_4864442_2.htm)>.

On 10 July 2012, the State Council, China's top administration, promulgated the Opinions on Promoting the Development of the Red Cross Enterprise [Guowuyuan Guanyu Cujin Hongshizi Shiye Fazhan de Yijian].<sup>6</sup> The Opinion was addressed to the provincial governments and the ministries and departments under the State Council. The Opinion 'supports and directs the participation of the red cross societies in international red cross movement and the State work on humanitarian assistance to foreign States, and incorporates the work on humanitarian assistance to foreign States of the red cross societies into the State overall strategy on foreign aid'.<sup>7</sup> The Opinion urges 'the Chinese National Committee on International Humanitarian Law to fully play its coordinative and advisory role, and actively carry out international communication and cooperation in the field of international humanitarian law, and promote the dissemination and implementation of international humanitarian law in China'.<sup>8</sup>

*Cases — Litigation of Chinese Victims against Japan before a Court in Chongqing*

On 10 September 2012, 15 Chinese victims took legal action against Japan before Chongqing Municipal Higher People's Court for war damages caused by Japan's air bombing of Chongqing in the period from 1938 to 1943. One of the litigants is 92 years old. The victims seek relief from the Japanese government in the form of a formal apology and damages. This is one of the few recent cases where Chinese victims of the Japanese invasion of China during the period from 1931 to 1945 have decided to make a legal claim before Chinese courts. No subsequent development of this case has been reported. It is unknown whether the Chongqing Municipal Higher People's Court has filed this case.

It was estimated that during the period from 1938 to 1943, the Japanese air force bombed Chongqing, the then Chinese Provisional Capital, 218 times with more than 9,000 battle planes. The bombing dropped more than 1,100 bombs in Chongqing and caused more than 10,000 civilian deaths.<sup>9</sup>

*Government Policy — Protection of Civilians in Armed Conflict*

On 25 June 2012, the Chinese Permanent Representative to the UN made remarks in the Security Council open debate on the protection of civilians in armed conflict. He emphasized that the recent practice of the Security Council of assigning mandates on the protection of civilians has triggered enormous controversies and promoted deep reflection by the international community. He then focused on the following four points.

First, all parties to the conflict must spare no effort in protecting civilians. In the event of an armed conflict, the primary responsibility to protect civilians from violence and the

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<sup>6</sup> 25 *Guofa* (2012) <[http://www.gov.cn/zwggk/2012-07/31/content\\_2194990.htm](http://www.gov.cn/zwggk/2012-07/31/content_2194990.htm)>.

<sup>7</sup> *Ibid.*, para. 11.

<sup>8</sup> *Ibid.*, para. 18.

<sup>9</sup> <<http://china.huanqiu.com/hot/2012-09/3132688.html>>.

scourge of war lies with national governments. At the same time, all parties involved in conflict and other relevant domestic and foreign actors are also duty bound to abide by international humanitarian law and other relevant provisions of international law, and to fulfill their responsibilities in the protection of civilians. The actions of one party to the conflict in violation of international law should under no circumstances constitute an excuse for any other party to breach its obligations under such law. The report of the Secretary-General makes reference to the use of drones and other challenges in the protection of civilians, all of which deserve our focused attention.

Secondly, in the process of fulfilling the duty of protecting civilians, the purposes and principles of the *Charter of the United Nations* must be upheld, especially the principles of respect for national sovereignty, unity and territorial integrity as well as that of non-interference in internal affairs. Operations involving the protection of civilians must be authorized by the Security Council and carried out in an orderly manner under the auspices of the UN. No party should arbitrarily interpret Security Council resolutions and no actions overstepping Council mandates should be allowed. The protection of civilians is humanitarian in nature and should not be exploited to serve political motives or objectives, including regime change. The rigorous and effective monitoring of the implementation of Security Council resolutions has become an important task that must be accomplished urgently.

Thirdly, the authorization of the use of force in the protection of civilians must be approached with extreme caution. China believes in the political and peaceful resolution of disputes, as military intervention often proves counterproductive. There are serious shortcomings in such interventions, such as ill-defined responsibilities, unclear authorizations and a lack of ex post facto accountability. Rather than resolving conflicts and protecting lives, military intervention adds fuel to the fire and exacerbates humanitarian crises.

Fourthly, the practice of selectivity and double standards must be abandoned. Many Member States have long been urging the Security Council to uphold the principles of fairness and impartiality and pay equal attention to all items on the Council's agenda relating to the protection of civilians, including the situations in the Gaza Strip, Somalia, Afghanistan and Iraq. China endorses such views. Adopting a practice of selectivity or double standards would only harm the role and authority of the Security Council.<sup>10</sup>

*Government Policy — General Position on Arms Control, Disarmament, and Non-proliferation*

In the Position Paper at the 67<sup>th</sup> Session of the UN General Assembly released on 21 September 2012, China expressed its general position on arms control, disarmament and non-proliferation as follows:

1. China has consistently placed importance on and supported international arms control, disarmament and non-proliferation efforts, and stood for complete prohibition and

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<sup>10</sup> <<http://www.china-un.org/eng/hyyfy/t966334.htm>>. See also China's position paper at the 67<sup>th</sup> session of the UN General Assembly <<http://www.china-un.org/eng/hyyfy/t971887.htm>>.

thorough destruction of all weapons of mass destruction (WMDs) including nuclear, chemical and biological weapons.

China is firmly opposed to the proliferation of WMDs and their means of delivery, and strictly fulfills its international obligations and relevant commitments. To achieve the goal of non-proliferation, all countries should help build a global and regional security environment of mutual trust and cooperation, reduce the motivation for the proliferation of WMDs; resolve proliferation issues by political and diplomatic means; uphold and strengthen the international non-proliferation regime; and handle the relationship between non-proliferation and the peaceful use of science and technology in a balanced way and abandon double standards. China would like to step up exchanges and cooperation with all parties to move forward the international non-proliferation process.

China has consistently and actively advocated the complete prohibition and thorough destruction of nuclear weapons. China is firmly committed to a nuclear strategy based on self-defence and has upheld its commitment that it would not be the first to use nuclear weapons at any time and under any circumstances and that it would unconditionally refrain from using or threatening to use nuclear weapons against non-nuclear-weapon states or nuclear-weapon-free zones. China has exercised utmost restraint regarding the scale and development of its nuclear arsenal, never deployed nuclear weapons in other countries and never taken part in any form of nuclear arms race. China will continue to keep its nuclear force at the minimum level required for national security.

China supports the Geneva Conference on Disarmament (CD) in reaching agreement on a comprehensive and balanced program of work and starting considering substantive issues at an early date. China upholds the authority and effectiveness of the multilateral disarmament regime, supports the CD in launching negotiation on the Fissile Material Cut-off Treaty at an early date, always regards the CD as the only appropriate forum for negotiating the Treaty and has been working actively to promote consensus-building among the parties to bridge differences. China firmly supports the Comprehensive Nuclear Test Ban Treaty and pushes for its early entry into force.

China believes that the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the cornerstone of the international nuclear non-proliferation regime. China welcomes the positive results of the 2010 review conference and hopes that the parties will make joint efforts to implement the final documents. In the current situation, the universality, authority and effectiveness of the NPT should be upheld and strengthened for it to play an even bigger role in preventing proliferation of nuclear weapons, promoting nuclear disarmament and the peaceful use of nuclear energy.

China takes seriously nuclear safety and security, opposes nuclear terrorism, supports increasing relevant international cooperation and welcomes progress made in this regard at the Washington Nuclear Security Summit of 2010 and the Seoul Nuclear Security

Summit of 2012. China stands ready to work with all parties to actively implement the results achieved at the aforementioned summits.

China maintains that safety should come first in the use of nuclear energy. China supports the international community in taking concrete measures to enhance nuclear safety and conducting international cooperation to promote the sound and sustainable development of nuclear energy.

2. China supports the purposes and objectives of both the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC). China has fully and strictly fulfilled its obligations under the two Conventions and supports the enhancement of their universality. China finds regrettable that relevant states parties that possess chemical weapons and those that abandoned such weapons on the territories of other states parties failed to complete the destruction process before the scheduled deadline of the CWC, and urges such countries to follow relevant decisions of the Conference of the States Parties and the Executive Council and make further efforts to complete the destruction according to the timetable of relevant decisions and destruction plans. The Organization for the Prohibition of Chemical Weapons (OPCW) should effectively supervise the destruction process. China will take an active and constructive part in the Third Review Conference of the States Parties of the CWC and continue to make its own efforts to promote the comprehensive and balanced implementation of the Convention. China has worked with other States Parties of the BWC in actively pushing for consensus at the Seventh Review Conference of the Convention and will continue to promote the constructive role of the BWC in diffusing the threat of biological weapons, preventing their proliferation and enhancing the peaceful use of biotechnology.

3. China stands for the peaceful use of outer space and opposes arms race in or the introduction of weapons into outer space. China maintains that the international community should conclude relevant international legal instruments as soon as possible to fundamentally remove security threats to outer space. China values the positive role of the Transparency and Confidence-Building Measures (TCBM) in safeguarding security in outer space, supports the principle of 'inclusiveness and complementarity' in promoting the prevention of arms race and the TCBM process in outer space. China will take a constructive part in the work of the UN Group of Governmental Experts on Outer Space TCBM.

4. China believes that information security is a common challenge facing the international community. The pressing task is for countries to conduct practical and effective international cooperation and jointly build a peaceful, secure, cooperative and open cyberspace. Formulating international rules on cyber security will be an effective way to achieve this goal, and the United Nations should play a central role in the relevant process. China, Russia, Tajikistan and Uzbekistan proposed a draft 'International Code of Conduct on Information Security' at the UN General Assembly in 2011. We hope that the international community will have in-depth discussions on this issue within the

framework of the Group of Governmental Experts on the Issue of Information Security and reach agreement at an early date.

5. China attaches importance to military transparency and is committed to enhancing mutual trust in the military field with other countries. In 2007, China joined the UN Standardized Instrument for Reporting Military Expenditures and returned to the UN Register of Conventional Arms. China has taken a constructive and active part in the work of the UN Group of Governmental Experts on Military Expenditures Transparency.

6. China attaches importance to the humanitarian issues in the field of arms control and actively commits itself to enhancing the universality and effectiveness of the Convention on Certain Conventional Weapons (CCW) and its Protocols. China has taken a constructive part in the negotiations of the CCW Group of Governmental Experts (GGE) on Cluster Munitions. China has actively engaged in international de-mining assistance and helped free relevant countries from the plague of landmines. China has been an active participant in the Arms Trade Treaty process and supports the international community in taking necessary measures to properly regulate arms trade, and prevent and crack down upon the illegal transfer and trafficking of conventional weapons. China supports the international efforts in combating illicit trade in small arms and light weapons and earnestly implements the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.<sup>11</sup>

*Government Policy — Amended Protocol II to the Convention on Certain Conventional Weapons*

On 14 November 2012, the Chinese delegation made a statement at the 14<sup>th</sup> annual conference of the high contracting parties to the 1996 Amended Protocol II to the CCW. The delegation stated:

As one of the High Contracting Parties, the Chinese Government has always attached great importance to the implementation of AP II, and faithfully fulfilled its obligations. In 2012, China has allocated a great amount of human and material resources and taken effective measures in promoting the implementation of the Protocol in an earnest manner. Positive achievements have been made in this regard.

The Chinese military forces continue to destroy anti-personnel mines that do not meet technical requirements of AP II and other explosive ordnance. At the same time, training and awareness-raising programmes have been implemented in accordance with provisions of the Protocol. Within the framework of routine military training and education, specific training courses for experts were carried out and workshops focusing on implementation of AP II and on destruction techniques of anti-personnel mine stockpiles were held.

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<sup>11</sup> <<http://www.china-un.org/eng/hyyfy/t971887.htm>>.



In addition to promoting domestic implementation of AP II, China has also actively carried out international humanitarian demining cooperation and assistance. Since 1998, China has provided more than 60 million RMB humanitarian assistance to nearly 40 countries in Asia, Africa and Latin America for clearing mines and other explosive remnants. Such assistance includes de-mining equipment donation, technical training as well as victim assistance. In 2012, China dispatched an expert team to Cambodia to carry out field training on mine clearance. China also held de-mining training courses for Sudan and the South Sudan respectively, and a total of 39 deminers were trained. In addition, China provided victim assistance to Lebanon and Lao PDR which valued 2.3 million RMB, contributing to the early reintegration of mine-affected victims.<sup>12</sup>

*Government Policy — Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention)*

On 3 December 2013, the Chinese delegation made a statement at the 12<sup>th</sup> Meeting of the State Parties to the Ottawa Convention as an observer State. The delegation stated:

The Chinese Government always attaches great importance to the humanitarian concerns caused by Anti-Personnel Landmines (APLs), and supports the international efforts to address these concerns. China has not joined the Ottawa Convention due to legitimate national defense needs. However, China endorses the purposes and objectives of the Convention, and appreciates the humanitarian spirit reflected therein as well as the important role of the Convention in addressing the humanitarian concerns caused by APLs since its entry into force. In recent years, China, as an observer state, participated in the meetings of the States Parties to the Convention and other relevant activities. Since 2005, China has voted for consecutive years in favor of the UNGA resolution on the implementation of the Ottawa Convention, which demonstrates our position and attitude regarding the Convention.<sup>13</sup>

*Government Policy — Protocol V to the Convention on Certain Conventional Weapons*

On 12 November 2012, the Chinese delegation made a statement at the 6<sup>th</sup> Conference of the High Contracting Parties to the Protocol V to the CCW. The delegation stated:

China has always attached great importance to the humanitarian concerns caused by the ERW. China actively participated in relevant negotiations, and played a constructive role in the conclusion of Protocol V. In April 2010, China ratified the Protocol and became a High Contracting Party to the CCW and all its five Protocols. China has submitted its national report in accordance with the decisions of the annual conference of the CCW and

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<sup>12</sup> <<http://www.china-un.ch/eng/hom/t989879.htm>>.

<sup>13</sup> <<http://www.china-un.ch/eng/hom/t995144.htm>>.

Protocol V. The report introduced China's efforts in implementation of the Protocol, including clearance, removal or destruction of ERW, cooperation and assistance, and generic preventive measures. China will continue to actively promote the faithful implementation of the Protocol in a comprehensive manner.

As a country affected by ERW, China fully understands the difficulties faced by other affected countries, and supports international cooperation and assistance in this regard. China always believes that in order to resolve the ERW issue in a more effective way, the principle of user's responsibilities to clearance should be observed, which will promote more responsible and restraint attitude on the use and transfer of relevant weapons by all parties. China is ready to participate, within its own capacity, in international cooperation and assistance for clearance of ERW in accordance with the Protocol.<sup>14</sup>

*Government Policy — Anti-Vehicle Landmines (AVL)*

On 15 November 2012, the Chinese delegation made a statement at the meeting of the high contracting parties to the CCW. With respect to the issue of anti-vehicle landmines (AVL), the delegation stated:

In accordance with decisions by the Fourth Review Conference, an open-ended meeting of experts on the issue of Anti-Vehicle Landmines (AVL) was convened last April. We noted that there remain wide differences among states parties on how to deal with the issue. We believe that as the extent of humanitarian concerns differs, the ways and means to resolve the AVL issue should be different from those regarding anti-personal landmines. Meanwhile, national conditions should also be fully taken into account, and one-size-fits-all formula would be inappropriate. The Amended Protocol II has proper provisions on the AVL issue, which should be implemented in a comprehensive and effective manner.<sup>15</sup>

*Government Policy — Arms Trade Treaty (ATT)*

On 9 July 2012, the Chinese delegation made a statement at the general debate of the UN Conference on Arms Trade Treaty (ATT). The Chinese delegation said:

Firstly, the primary objective of an ATT is to prevent and combat illicit arms trade and maintain global and regional stability by regulating arms trade. Meanwhile, States' right to legal arms trade and self-defense should not be compromised.

Secondly, since legal arms trade has a direct bearing on the political, security and economic interests of all States, as well as their needs for national defense, an ATT

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<sup>14</sup> <<http://www.china-un.ch/eng/hom/t989878.htm>>.

<sup>15</sup> <<http://www.china-un.ch/eng/hom/t989881.htm>>.

should address the legitimate interests of States and the humanitarian concerns in a balanced manner.

Thirdly, an ATT should be universal, objective and non-discriminatory. The treaty shall not be misused for political purposes to interfere with the normal arms trade and internal affairs of any State.

Fourthly, an ATT should aim at urging States to establish their effective national regulating and control mechanism and enhance relevant capacity building on arms trade, while fully respecting the sovereign rights of all States to make their own arms trade decisions in accordance with the principles and criteria of the treaty.

The delegation further highlighted China's basic stance on several important issues of the Treaty:

Regarding the scope. The scope of ATT should be defined properly by covering as a priority those conventional arms that have been clearly defined internationally and accepted universally. We have to bear in mind that the best is the enemy of the good. It is essential to conclude an ATT for regulating the international arms trade, but it could be unhelpful to introduce too many debatable items and transactions activities into the scope for achieving an ATT as early as possible.

Regarding the criteria. Criteria are important references for States to consider in making arms trade decisions, but the States still have the sovereign rights to decide whether to give green light or not to a certain arms trade transaction. China upholds that the criteria should be objective, balanced, realistic and feasible, excluding any political, controversial or discriminatory elements.

Regarding the implementation mechanism. This mechanism should ensure the comprehensive and effective fulfillment of the Treaty, avoiding interference with States' sovereign decisions. To regulate the international arms trade, it is of great importance for all States to establish effective national regulatory mechanism and build related capacities. Cooperation among States, including establishing related mechanisms should be conducive to the above-mentioned goal. Only through this, can a future ATT be widely supported and effectively implemented.

Regarding the transparency. China is not against proper transparent measures such as establishing international register on conventional arms and sharing information on arms trade. Meanwhile, China is of the view that, as arms trade is closely linked to national security, relevant measures should strike an appropriate balance between transparency and national security. Clean-clut transparency measures may not suit all.<sup>16</sup>

*Government Policy — Scope and Application of Universal jurisdiction*

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<sup>16</sup> <[http://www.un.org/disarmament/ATT/statements/docs/20120709/20120706\\_China\\_E.pdf](http://www.un.org/disarmament/ATT/statements/docs/20120709/20120706_China_E.pdf)>.

On 18 October 2012, the Chinese delegation made a statement on the scope and application of universal jurisdiction at the Sixth Committee of the 67<sup>th</sup> Session of the UN General Assembly. The delegation made the following observations on this issue:

First, universal jurisdiction and the rule of 'extradite or prosecute' are two distinct concepts. The exercise of universal jurisdiction only arises in the absence of any link to the place where the crimes were committed, the nationality of any perpetrator, the nationality of the victims or the interest of that state. It is supplementary to territorial, personal and protective jurisdiction of a state.

Secondly, under the current international law, states have the right to exercise universal jurisdiction over piracy on the high seas. Other than that, there are notable differences and divergences among states on whether universal jurisdiction can be applied under other circumstances. Universally recognized rules of customary international law have yet to emerge.

Thirdly, states should exercise universal jurisdiction pursuant to the following conditions.

- A. Universal jurisdiction could only be exercised over such crimes against common interests of the international community provided for by international treaties and established by universally recognized rules of customary international law.
- B. Territorial, personal or protective jurisdiction should be given priority over universal jurisdiction.
- C. The rule of immunity under international law, including immunity enjoyed by state, head of state and state officials, and diplomatic and consular personnel should be respected in judicial proceedings of a state.
- D. Fundamental principles of international law such as sovereign equality and non-interference in internal affairs should be respected.<sup>17</sup>

#### *Government Policy — International Criminal Court (ICC)*

The Chinese delegation made a statement at 11<sup>th</sup> Session of the Assembly of State Parties to the *Rome Statute of the International Criminal Court* as an observer State. The delegation shared some views on the future work of the ICC as follows:

Firstly, it is our belief that the Court shall adhere to the UN Charter. The UN Charter and the principles stipulated in it are recognized as the cornerstone of international rule of law. As part of international legal system, the Court shall comply with the Charter and those universally recognized principles, and ensure that it will not undermine the exclusive jurisdiction of the UN Security Council in determining the existence of a threat to the peace, a breach of the peace or an act of aggression.

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<sup>17</sup> <<http://www.china-un.org/eng/hyyfy/t980875.htm>>.

Secondly, the Court should perform its functions in strict conformity with the principle of complementarity. It is the sovereign state that assumes the primary responsibility to punish serious crimes and end impunity, so as to bring justice to reality. The Court is designed to subsidize, rather than substitute national jurisdictions. Consequently, choice by relevant states or regions for specific means to realize justice should be fully respected in practice. Their judicial traditions and practical needs should be well taken into consideration. In this sense, China supports the strengthening of effective national jurisdictions on serious international crimes through capacity building.

Thirdly, cooperation with states need be handled in a careful way. We understand that cooperation of State parties as required by the Rome Statute is of great importance to the effective and efficient functioning of the Court, and we respect the full cooperation rendered by State parties with the Court. At the same time, we would like to reiterate that the right of non State parties should also be fully respected in accordance with international law.

Last but not the least, the Court should make its contribution to both peace and justice. As two of the core values pursued by mankind, peace and justice should reinforce and complement each other. The Chinese delegation believes that justice can not be achieved at the expense of peace. Serious crimes, as we noted, were often committed in conflict-stricken areas, and we hope the Court exercise its powers in a prudent manner without prejudice to the efforts of the international community to realize political settlement of international or regional conflicts.<sup>18</sup>

*Conferences — Activities of the Chinese National Committee of International Humanitarian Law*

On 24 February 2012, the Chinese National Committee on International Humanitarian Law held its fourth annual session in Beijing. High officials from the member organs of the Committee, as well as legal experts from numerous universities attended the session. The member organs attending the session included the Standing Committee of the National People's Congress, the Ministry of Justice, the Central Military Commission (CMC), the Ministry of Foreign Affairs, the Ministry of Education, and the State Administration of Cultural Heritage. The Red Cross Society of China also attended this session. In the session, the Vice President of the Committee made a report on its work in 2011. Further, she said the Committee would actively participate in the relevant international humanitarian activities, promote international cooperation, and enhance the research of international humanitarian law in 2012. The President of the Committee also addressed the session, and urged it to promote the dissemination of international humanitarian law in China in 2012.<sup>19</sup>

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<sup>18</sup> <[http://www.icc-cpi.int/iccdocs/asp\\_docs/ASP11/GenDeba/ICC-ASP11-GenDeba-CHN-ENG.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/ASP11/GenDeba/ICC-ASP11-GenDeba-CHN-ENG.pdf)>.

<sup>19</sup> <[http://news.china.com.cn/rollnews/2012-02/29/content\\_12994813.htm](http://news.china.com.cn/rollnews/2012-02/29/content_12994813.htm)>.

**YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW — VOLUME 15, 2012**  
**CORRESPONDENTS' REPORTS**

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*Government Initiatives — International Humanitarian De-mining Assistance*

In 2012, China continued to participate actively in international humanitarian de-mining assistance by helping post-conflict States to clear the remaining landmines in their territories.

On 9 April 2012, China donated de-mining equipment to Serbia in accordance with China's commitment made in the international donation conference on de-mining in Serbia in 2011.

In June 2012, the Chinese government also donated assistance materials to the victims of cluster munitions to the Laotian government. On 11 July 2012 the Ministry of Foreign Affairs of China signed the Memorandum of Understanding on the Provision of Assistance of China to the Laotian Victims of Cluster Munitions with the Ministry of Foreign Affairs of Laos.

In August and September 2012, twenty military officers from South Sudan attended the training sessions of international humanitarian de-mining in Nanjing Institute of Technology of the Chinese People's Liberation Army.<sup>20</sup>

*Dissemination — Chinese Armed Forces*

In November 2012, all military judges from the military courts in Jinan Military Region attended a lecture on international humanitarian law. This lecture was jointly organized by the International Committee of the Red Cross Regional Delegation for East Asia and the Law School of Shandong University in Jinan, Shandong province.<sup>21</sup>

*Dissemination — Legal Advisers*

In the Chinese army, the departments of exercising judicial administration have been set up from the organs of the General Departments to the level of regiments. The legal advice divisions (*falv guwen chu*) have been established above the level of armies. Below the level of the legal advice divisions, legal consultation stations (*falv zixun zhan*) have been created.

In terms of the staff, there are judicial secretaries (*sifa mishu*), army lawyers (*jundui lvshi*), as well as gross root legal service staff (*jiceng falv fuwu gongzuozhe*) and legal consultants (*falv zixunyuan*). In particular, army lawyers were allocated to parts of land forces in the year of 2000, and subsequently army lawyers were also allocated to parts of the Second Artillery and the armed police forces. As of June 2012, there are 268 legal adviser divisions, over 1,600 legal consultation stations, over 1,400 army lawyers, and over 24,000 legal consultants. The general legal advisers were also allocated to the Chinese forces in participation of China-Russia joint military exercises and the Chinese navy fleets navigating the waters off the Somalia coast.<sup>22</sup>

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<sup>20</sup> Guoji Rendao Zhuyi Saolei Yuanzhu: Zhongguo zai Xingdong, 'International Humanitarian Landmine Clearance Assistance: China in Action', *Liberation Army Daily* (Jiefangjun Bao), 24 October 2012 <<http://news.xinmin.cn/rollnews/2012/10/24/16842900.html>>.

<sup>21</sup> <<http://cpc.people.com.cn/18/n/2012/1115/c350829-19590115-2.html>>.

<sup>22</sup> The Innovative Development of Army Judicial Administration and Legal Service Work since the Sixteenth

*Dissemination — Moot Courts among Chinese Universities*

From 31 March–1 April 2012, the first International Criminal Court Trial Competition (Chinese edition) was held at China University of Political Science and Law (CUPL), Beijing. This competition was jointly held by CUPL and the International Criminal Court (ICC). Teams from 13 Chinese universities participated in the competition. They submitted their memorials for the prosecution, the defense and the victims, and made oral submissions before the judges. In the end the best three universities, namely the CUPL, Peking University, and China University of Foreign Affairs, qualified to participate in the final round at the ICC, The Hague.<sup>23</sup> The final round was held in the Courtroom I of the ICC, The Hague on 1 June 2012. The three Chinese teams competed before ICC Judge Cuno Tarfusser (presiding) and ICC Associate Legal Officers Silvestro Stazzone and Simon Grabovec, on a fictitious case, presenting oral arguments during a confirmation of charges hearing in the roles of Prosecution, Defence and the Legal representative for victims. The final round of the ICC Trial Competition in Chinese was also web streamed live on the Court's official website. In the end, CUPL won the moot competition. China Foreign Affairs University and Peking University won, respectively, the second and third places.<sup>24</sup> The Dutch Ministry of Foreign Affairs financially supported the participation of these three Chinese universities in the final round.

On 8–9 December 2012, the Red Cross Society of China, the International Committee of the Red Cross Regional Delegation for East Asia, and the Law School of Wuhan University jointly held the Sixth Red Cross International Humanitarian Law Moot Court Competition in Wuhan University. This year the Competition attracted 26 Chinese universities. In the end, the team of China University of Political Science and Law won the final round. Together with the teams of Peking University, Nanjing University-John Hopkins University, and Xiamen University, it qualified to participate in the 11<sup>th</sup> Asia-Pacific Red Cross International Humanitarian Law Moot Court Competition in Hong Kong in March 2013.

*Dissemination — Lectures, Courses and Training Sessions*

On 27 June 2012, the Red Cross Society of Jungar Banner, Ordos Municipality, Inner Mongolia Autonomous Region organized a training lecture on international humanitarian law for volunteers. Over 20 volunteers attended the lecture. The staff in the Red Cross Society of the Jungar Banner introduced the history of the red cross societies, the concept of international humanitarian law, the fundamental principles of the red cross societies, as well

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Party Conference (Dang de Shiliuda Yilai Jundui Sifa Xingzheng he Falv Fuwu Gongzuo de Chuangxin Fazhan), Legal Daily (Fazhi Ribao) (12 November 2012)  
<<http://cpc.people.com.cn/18/n/2012/1112/c350837-19555771-3.html>>.

<sup>23</sup> Research Centre for International Criminal Law and International Humanitarian Law, *Moot Courts* (2012)  
<[http://www.rcicl.org/english/list\\_more.asp?inford=1482&classid=45](http://www.rcicl.org/english/list_more.asp?inford=1482&classid=45)>.

<sup>24</sup> <[http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr800.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr800.aspx)>.

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as the necessary skills of a volunteer.<sup>25</sup>

On 27–29 August 2012, the International Committee of the Red Cross Regional Delegation for East Asia held the second annual summer seminars for Chinese university teachers in the China University of Foreign Affairs in Beijing. Over 25 university teachers across China attended the session. Experts from the ICRC, the US, and New Zealand were invited to deliver lectures on health care in the situation of armed conflicts, cyber warfare, and detention of civilians.<sup>26</sup>

On 24–27 September 2012, the Red Cross Society of China held an advanced course for the dissemination elites across the country in Nanchang, capital of Jiangxi province. More than 70 dissemination elites from 28 provincial Red Cross societies and representatives from the ICRC and the International Federation of the Red Cross and Red Crescent Movement attended the course. Mr XIAO Fengcheng at the Bureau of Legal Affairs, Central Military Commission introduced the research, dissemination and implementation of international humanitarian law in the Chinese army, and Professor ZHU Lijiang at the Faculty of International Law, China University of Political Science and Law, introduced the most recent development of international humanitarian law to the audience.<sup>27</sup>

ZHU LIJIANG

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<sup>25</sup> <[http://www.zge.gov.cn/bmjs/hszh/gzdt/201207/t20120711\\_649980.html](http://www.zge.gov.cn/bmjs/hszh/gzdt/201207/t20120711_649980.html)>.

<sup>26</sup> <<http://www.icrc.org/chi/resources/documents/feature/2012/china-summer-course-2012-08-28.htm>>.

<sup>27</sup> <[http://www.redcrossol.com/sys/html/lm\\_8/2012-10-09/101901.htm](http://www.redcrossol.com/sys/html/lm_8/2012-10-09/101901.htm)>.