

YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW — VOLUME 16, 2013  
CORRESPONDENTS' REPORTS

CHINA<sup>1</sup>

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*Treaty Action — Initial Report under Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*

- Committee on the Rights of the Child, *Summary Record of the 1835th Meeting*, UN Doc. CRC/C/SR.1835, 19 November 2013, pp. 5–7
- Committee on the Rights of the Child, *Concluding observations on the initial report of China submitted under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013)*, UN Doc. CRC/C/OPAC/CHN/CO/1, 29 October 2013

On 17 November 2010, China submitted her first State report (initial report) under Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Committee on the Rights of the Child considered the initial report of China at its 1835th meeting, held on 27 September 2013, and adopted the report at its 1845th meeting, held on 4 October 2013. The relevant summary record of the consideration by the Committee was as follows:

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36. Mr. He Yongcai (China) said that the State Council and the Central Military Commission were jointly responsible for implementing the Optional Protocol. The Chinese Government did not intend to raise the minimum age of conscription from 17 to 18, as 17 was also the age of completion of secondary education. It was an honour for young people to perform military service after graduating from high school and it was of their own free will that they enlisted in the army.

37. The Chairperson, speaking as a member of the Committee, asked how the competent authorities ascertained that young people were joining the army of their own free will and that those who joined were indeed 17 years old on enlistment.

38. Mr. He Yongcai (China) said that new recruits to the army had to be 17 years of age on 31 December the year before they joined up. The identity and age of future recruits were first checked by officials of the Ministry of Public Security, the Ministry of Health and the Ministry of Education, who reviewed all the documents submitted — ID card, school certificate and the card issued by the national household registration office — at the time of application. The educational qualifications and age of recruits were again verified on enlistment.

39. Mr. Mezmur (Country Rapporteur for the Optional Protocol) asked what the punishment was for recruiting a person who did not meet the criteria. He asked why China, which claimed that it did not lack candidates wishing to join the army, did not raise its conscription age to 18 years.

40. Ms. Aidoo wondered if young school-leavers who had taken out loans to pay for their secondary education had any choice but to join the army to repay their debts and ease the financial burden on their families.

41. Mr. He Yongcai (China) said that the Chinese Constitution and the Military Service Law made it compulsory for all men aged 18 to perform military service. The army was also a way for young people to acquire greater knowledge, which made them more competitive in the labour market. Since 1984, students in higher education had been able to apply for deferment and the number of applicants meeting the recruitment criteria had therefore fallen, which was why it was not possible to raise the age of conscription to 18. Under the Chinese Criminal Law, the recruitment of a person unsuitable for military service for any reason was liable to a sentence of 3 years' imprisonment.

42. Mr. Mezmur (Country Rapporteur) pointed out that China was one of the States that exported small arms to countries known for not respecting children's rights, notably during armed conflict, one of them being the Syrian Arab Republic. He asked the delegation to say something about that.

43. Mr. Kotrane asked whether the State party could prosecute offences under the Optional Protocol committed abroad or make an extradition request based on the Protocol. He also wanted to know if it would accede to the Rome Statute of the International Criminal Court.

44. Mr. Wang Peng (China) said that the export of small arms was strictly regulated and that China did not export arms to countries subject to Security Council sanctions. Export certificates and a strict oversight system were used to rigorously monitor all arms exports.

45. Mr. Mezmur (Country Rapporteur) asked why China had abstained from voting on Security Council resolution No. 2068 (2012), strengthening and extending the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict.

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46. Mr. Jia Guide (China) said he did not know the reasons for the abstention, but assured the Committee that the decision to abstain would not affect China's firm commitment to fighting the involvement of children in armed conflict.

47. Mr. Wang Peng (China) said that some secondary schools provided students aged 18 — or even 17, in exceptional cases — with a brief military training course, which did not involve the use of arms and was primarily aimed at inculcating discipline among students and familiarizing them with the principles of national defence. Members of the People's Militia were generally aged between 18 and 35, and were mainly recruited from the reserve officer corps.

48. The Chairperson, speaking as a member of the Committee, asked whether it was true that secondary schoolchildren had to undergo a one-month military training course.

49. Mr. Wang Peng (China) said that the course did not last a month but five days at most, and that it was only national defence awareness training.

50. Mr. Mezmur (Country Rapporteur) asked whether military colleges and schools were run by the Chinese People's Liberation Army and whether measures had been taken to prevent the recruitment of children by non-State armed groups and private security companies, even though such bodies were officially prohibited by law.

51. Mr. Jia Guide (China) said that the law expressly prohibited armed groups and private security companies and that there was therefore no further need to take steps to regulate their activities. The legislature did not consider it necessary to expressly prohibit the recruitment of children by groups or companies that de facto did not exist.

52. The Chairperson, speaking as a member of the Committee, asked if the State party had mechanisms for detecting whether child refugees or asylum seekers had been involved in hostilities.

53. Mr. Jia Guide (China) said that he had no information on that subject, but would arrange to send the response to the Committee.

54. Mr. Mezmur (Country Rapporteur) commended the efforts made by the State party, but said that there was still much room for improvement in applying all the provisions of the Optional Protocol in order to be in full compliance, in particular with regard to the age of conscription into the Armed Forces, regulating the sale of weapons abroad and military education in ordinary schools.

55. Mr. Jia Guide (China) thanked all the speakers for their insightful questions and recommendations and assured the Committee that written replies would be given to all the pending questions.

On 29 October 2013, the Committee issued the concluding observations on China's initial report. While the observations noted the positive aspects, it highlighted the negative aspects and made relevant recommendations as follows:

III. General measures of implementation

Legislation

The Committee regrets that the Law of the People's Republic of China on National Defence does not explicitly criminalize recruitment of children up to 18 years.

The Committee recommends that the State party consider amending the Law on National Defence to criminalize recruitment and involvement of children under the age of 18 years in the Armed Forces.

Dissemination and awareness-raising

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The Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated among the general public, children and their families.

### Training

The Committee regrets that the training programmes for members of the Armed Forces and relevant professional groups dealing with children do not fully cover the provisions of the Optional Protocol.

The Committee encourages the State party to provide training on the Optional Protocol to all members of its Armed Forces, in particular personnel dealing with children, authorities working for and with asylum-seeking and refugee children, the police, lawyers, judges, military judges, medical professionals, social workers and journalists.

### Data

The Committee regrets the absence of information on the measures taken to establish a central data collection system in the State party — mainland China, Hong Kong, China, and Macao, China — to register all children within its jurisdiction who may have been recruited or used in hostilities.

The Committee recommends that the State party establish central data collection systems in mainland China, Hong Kong, China, and Macao, China, to identify and register all children within its jurisdiction who may have been recruited or used in hostilities abroad, or detained or maimed. The Committee also recommends that the State party ensure that data on refugee and asylum-seeking children who have been victims of such practices are properly collected. All data should be disaggregated by, *inter alia*, sex, age, nationality, ethnic origin and socioeconomic background.

## IV. Prevention

### Voluntary recruitment

The Committee expresses concern that the Military Service Law of the People's Republic of China allows voluntary recruitment of children below the age of 18 years into the active military service. It regrets that the State party does not intend to raise the age of voluntary recruitment to 18 years. In addition, while the minimum voluntary enlistment age in the State Party is reported to be 17 years, its binding declaration in respect of the Optional Protocol, made at the time of accession, appears to contain a contradictory statement that citizens who have not yet reached 17 years by 31 December of a given year may be recruited for active service.

The Committee is also concerned about:

The high number of total recruits under 18 years enrolled in the Armed Forces; and

The absence of policy and practice to ensure that children under 18 years are not involved in participation in hostilities.

The Committee recommends that the State party review and raise the age for voluntary recruitment into the Armed Forces to 18 years in order to promote and strengthen the protection of children through an overall higher legal standard. It further recommends that the State party:

Provide in its next periodic report information on the number and percentage of recruits under 18 years of age, if any, to the Armed Forces, as well as on the reported cases of recruitment irregularities, the nature of the complaints received and sanctions undertaken; and

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Explicitly prohibit the deployment of children under 18 years to areas where they may be at risk of indirect or direct participation in hostilities. The Committee further recommends that until such policy reform is undertaken, the State party put in place effective safeguards, including policies to ensure that children under 18 years are effectively screened before deployment to situations of armed conflict.

**Age verification procedures**

While noting that the State party has established procedures to verify the ages of incoming recruits, the Committee remains concerned at the low level of birth registration, especially among migrant children, in the State party, which may impact on the effectiveness of these procedures.

The Committee underlines the importance of birth registration as a measure to prevent recruitment of underage children, and recommends that the State party continue and strengthen its efforts to establish a free national birth registration system for all children, including migrant children.

**Military training**

The Committee is concerned that military training is included in the mainstream education curriculum and schools provide compulsory military education and training activities, including various levels of exposure to the handling of firearms, for all children under 18 years.

The Committee recommends that the State party exclude military training from the general education curriculum and take measures to ban military training with the use of firearms for children under the age of 18 in the mainstream education curriculum and schools.

**Military schools**

The Committee notes that the State Council and the Central Military Commission are allowed to recruit 17 year-old students graduating from ordinary high schools on a voluntary basis. The Committee is, however, concerned that:

Although the enrolment plans, specifically aimed at enrolling young students in military colleges and schools, are approved by the Ministry of Education and the General Political Department of the People's Liberation Army, each military college or school sets up its own educational curriculum and military training programmes;

No concrete information on the curriculum and military training activities — in particular regarding the handling of firearms — in military schools is provided;

Children in military colleges and schools lack access to an independent complaints mechanism.

The Committee recommends that the State party:

(a) Ban military-type training — including on the use of firearms — for children and ensure that any military training for children takes into account human rights principles, and that the educational content is approved and periodically monitored by the Ministry of Education;

(b) Provide in its next periodic report data, disaggregated by sex, age, nationality, ethnicity and socioeconomic background, on children enrolled in military colleges, vocational colleges and schools, as well as on the types of activities they carry out; and

(c) Set up independent and gender-sensitive mechanisms for complaints and investigation that are accessible to children in military colleges and schools, in order to

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monitor the welfare of and investigate complaints by children in such programmes.[.....]

V. Prohibition and related matters

Criminal legislation and regulations in force

The Committee expresses concern that the national legislation, including the Law of the People's Republic of China on National Defence, does not prohibit and criminalize the recruitment or use in hostilities of children under the age of 18 years by non-State armed groups. In addition, the Committee regrets that the State party's legislation does not contain an explicit provision defining recruitment and use of children under 18 years in the national Armed Forces in war or peace time as a crime.

The Committee notes the information provided by the State party that there are no privately operated military-security corporations in China. Nevertheless, the Committee is concerned by the absence in domestic legislation of provisions on criminal liability of private security services or companies.

The Committee recommends that the State party explicitly prohibit and criminalize the recruitment or use in hostilities of children under the age of 18 in the Armed Forces of the State party and in non-State armed groups.

(a) Amend the Law on National Defence in order to criminalize the recruitment and use of children up to the age of 18 years by non-State armed groups;

(b) Undertake a comprehensive review of all legislation affecting children, including the Criminal Code, with a view to swiftly amending the legislation to explicitly criminalize the recruitment and use of persons under 18 years of age in the national Armed Forces, non-State armed groups and security companies; and

(c) Ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (1997) and the Rome Statute of the International Criminal Court.

Extraterritorial jurisdiction

The Committee notes the information provided by the State Party about the possibility of establishing extraterritorial jurisdiction in cases of recruitment or involvement in hostilities of a child under the age of 18 years. However, it regrets that the law does not provide for extraterritorial jurisdiction for all the offences covered by the Optional Protocol, in particular the recruitment or use in hostilities of children under the age of 18.

The Committee recommends that the State party take all necessary steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol, including the recruitment and use in hostilities of children under the age of 18.

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

The Committee is deeply concerned that asylum-seeking and refugee children, especially those who may have been recruited or used in hostilities abroad, continue to be routinely arrested and detained in detention facilities, especially in Hong Kong, China. The Committee is also concerned about the absence of official statistics and data on asylum-seeking and refugee children in the State party — mainland China, Hong Kong, China, and Macao, China — and at the lack of procedures to identify children under its jurisdiction who may have been recruited or used in hostilities in other countries.

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In the light of its obligations under article 7 of the Optional Protocol, the Committee urges the State party to, in all areas under its jurisdiction:

- (a) Cease the administrative practice, especially in Hong Kong, China, of detaining asylum-seeking and refugee children, including those who may have been recruited or used in hostilities abroad;
- (b) Establish a mechanism for identifying children, including asylum-seeking and refugee children, who have been or may have been involved in armed conflict abroad, and ensure that personnel responsible for such identification are trained on child rights, child protection and child-friendly interviewing skills;
- (c) Provide children who have been or may have been involved in armed conflict with appropriate assistance for their physical and psychological recovery and their social reintegration; and
- (d) Establish a system to ensure data collection and registration of all asylum-seeking and refugee children in all areas under its jurisdiction.

### VII. International assistance and cooperation

#### Arms export and military assistance

While noting that article 5 of the Regulations on the Administration of Firearms Exports establishes the principles relating to the export of firearms by the State party, the Committee is deeply concerned that the State party actively exports firearms, including small arms and light weapons, to countries where children are known to be, or may potentially be, recruited or used in armed conflict and/or hostilities. The Committee regrets that the State party does not have any specific legislation to restrict the sale of arms to such countries. While the Committee notes the information in the State party's report about its active participation in Security Council deliberations in support of the implementation of the Optional Protocol, it envisages the possibility of the State party undertaking this role in a more consistent and child rights-focused manner.

The Committee urges the State party to enact and apply a full prohibition on firearms exports, including small arms and light weapons, as well as on any kind of military assistance to countries where children are known to be, or may potentially be, recruited or used in armed conflict and/or hostilities. The Committee also recommends that the State Party use its permanent position in the Security Council in a more consistent and child rights-focused manner to promote the implementation of the Optional Protocol in all States parties.

### VIII. Ratification of the Optional Protocol on a communications procedure

The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

### IX. Follow-up and dissemination

The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Head of State, the Parliament, relevant ministries, the Supreme Court and local authorities for appropriate consideration and further action.

The Committee recommends that the initial report and written replies to the list of issues submitted by the State party, as well as the present concluding observations be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in

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order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

*Treaty Action — China-South Korea Agreement on Return of Chinese Soldiers' Remains*

☛ <<http://world.people.com.cn/GB/8212/191606/383067/>>

In the beginning of December 2013, China concluded an agreement with South Korea according to which South Korea agreed to return Chinese soldiers' remains as soon as possible. In an anonymous tomb in Paju, South Korea, 425 Chinese soldiers' remains are currently buried. These Chinese soldiers died during the Korea War from 1950 to 1953. This is the first time that China has directly concluded such an agreement with South Korea. The excavation of the remains began on 19 December 2013.

*Legislation — Preparation for Revision of Act on Red Cross Societies*

☛ <[http://www.npc.gov.cn/npc/xinwen/syxw/2013-10/31/content\\_1812095.htm](http://www.npc.gov.cn/npc/xinwen/syxw/2013-10/31/content_1812095.htm)>

At the end of April 2013, the Second Meeting of Chairmen's Council of the Standing Committee of the Twelfth National People's Congress made a decision on the legislative working plan and supervision working plan for the year of 2013. According to this decision, the Act on Red Cross Societies (《红十字会法》) was listed into the preparatory programs of legislation, and will be reviewed in the year of 2013 or annually in the future years on the basis of concrete circumstances.

On 30 October 2013, the Standing Committee of the Twelfth National People's Congress promulgated its 68 legislative programs. These 68 legislative programs were divided into three categories. The first category contains 47 legislative programs, including the revision of the Act on Red Cross Societies. They are all conditionally to be referred to the National People's Congress for adoption within the tenure of the Twelfth National People's Congress. This indicates that the Chinese Act on Red Cross Societies will likely be revised within five years. It would be the first time China has revised this Act. The current Chinese Act on Red Cross Societies was adopted by the Fourth Session of the Standing Committee of the Eighth National People's Congress on 31 October 1993. Recently Chinese red cross societies have been in a crisis of credibility due to donation scandals exposed by the Chinese media.

*Legislation — Preparation for Implementation Detailed Rules on Identification and Administration of Refugees*

☛ <<http://zfs.mca.gov.cn/article/lfgz/201308/20130800503395.shtml>>

On 9 August 2013, the Ministry of Civil Affairs released its legislation working plan for the year of 2013. The plan, among others, identified twelve ministerial regulations which need to be adopted or revised. The Implementation Detailed Rules on Identification and Administration of Refugees (《民甄和管理法实施条例》) was listed as one of twelve ministerial regulations to be made. The Department of International Cooperation and the Department of Policy and Law were entrusted to jointly research and prove in the year of 2013. In the situation that China has no specific refugee legislation or regulation, this plan attracted much attention of those who are following the refugee situation in China.

*Government Policy — Protection of Civilians in Armed Conflicts*



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- Permanent Mission of the People's Republic of China to the UN, *Statement by Ambassador Wang Min at the Security Council Open Debate on Protection of Civilians in Armed Conflict*, UN Doc. S/PV.6917, 12 February 2013, p. 25  
<<http://www.china-un.org/eng/hyyfy/t1013938.htm>>

On 12 February 2013, the Chinese Ambassador made a statement at the UNSC open debate on protection of civilians in armed conflict. He said:

protecting civilians represents an unshirkable responsibility facing all parties to a conflict. All parties to an armed conflict should implement in earnest the Geneva Conventions, international humanitarian law and the relevant resolutions of the Council by making unremitting efforts to protect civilians. The Governments concerned have the primary responsibility for protecting innocent civilians in armed conflict. The concern and help of the international community should not replace the responsibility and obligation of the country concerned, related countries and their Governments, as well as the parties in response to conduct that violates human rights. As well as contributing to international humanitarian law, to pursue accountability and judicial justice, the first line of action is to fully utilize the domestic judicial system as the main channel. ... When conducting humanitarian relief operations for the purpose of protecting civilians, it is imperative to observe such principles as humanitarian neutrality and objectivity. Only by winning the trust and support of host countries can we ensure the effective implementation of humanitarian relief operations.<sup>2</sup>

*Government Policy — Nuclear Disarmament and Non-Proliferation*

- People's Republic of China Mission to the United Nations, *Statement by the Chinese Delegation at the General Debate of the United Nations Disarmament Commission*, 1 April 2013  
<[http://www.un.org/disarmament/content/news/disarmament\\_commission\\_2013/statements/20130401/19China.pdf](http://www.un.org/disarmament/content/news/disarmament_commission_2013/statements/20130401/19China.pdf)>

On 1 April 2013, a Chinese representative made a statement at the general debate of the UN Disarmament Commission. With regard to nuclear disarmament and non-proliferation, he said:

China stands for the complete prohibition and thorough destruction of nuclear weapons, and firmly pursues a nuclear strategy of self-defence. In the development of nuclear weapons, China has always exercised utmost restraint, has not and will not participate nuclear arms race in any form and will maintain its own nuclear forces at the minimum level necessary for national security needs.

China has adhered to the policy of no-first-use of nuclear weapons at any time or under any circumstances, and made the unequivocal commitment that it will unconditionally not use or threat to use nuclear weapons against non-nuclear weapon states and nuclear-weapon-free zones;

China is of the view that the international nuclear disarmament process should be actively promoted under the premise of maintaining global strategic stability and undiminished security for all. Countries with the largest nuclear arsenals should continue to make drastic and substantive reductions in their nuclear arsenals.

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<sup>2</sup> See also Permanent Mission of the People's Republic of China to the UN, *Statement by Ambassador Wang Min at the Security Council Open Debate on Protection of Civilians in Armed Conflict*, 19 August 2013  
<<http://www.china-un.org/eng/hyyfy/t1070031.htm>>.

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China supports the early entry-into-force of the Comprehensive Nuclear Test Ban Treaty and will continue its positive efforts to this end. China will stick to its commitment on nuclear test moratorium.

China is of the hope that the Conference on Disarmament in Geneva (CD) could reach consensus on the Programme of Work at an early date so as to start its substantive work as soon as possible, including conclusion of a non-discriminatory, multilateral and internationally and effectively verifiable FMCT.

China supports Treaty on the Non-Proliferation of Nuclear Weapons (NPT) review process, and hopes that all parties implement the outcomes of the Review Conferences in a comprehensive and balanced manner. China has actively participated in the previous P5 conferences on implementation of the NPT and will continue its positive efforts in chairing the P5 Working Group on Glossary of Definitions for Key Nuclear Terms.

China firmly opposes the proliferation of nuclear weapons, supports upholding and strengthening the international nuclear non-proliferation regime, and advocates peaceful solutions to regional nuclear issues through dialogue and negotiations.<sup>3</sup>

*Treaty Action — Chemical Weapons Convention*

- Permanent Mission of the People's Republic of China to the UN, *Statement by H.E. Wang Yi, Foreign Minister of China, At UN Security Council Meeting On the Issue of Chemical Weapons in Syria, 28 September 2013*  
<<http://www.china-un.org/eng/hyyfy/t1082581.htm>>

On 28 September 2013, Chinese Foreign Minister WANG Yi made a statement at the UNSC meeting on the issue of chemical weapons in Syria. He said:

China suffered deeply from the use of chemical weapons by Japanese invaders during the Second World War. We are firmly opposed to the use of chemical weapons by any country, any group or any individual. Whoever uses chemical weapons should be condemned by all. China welcomes the fact that the Syrian government joined the Chemical Weapons Convention (CWC) not long ago. Resolution 2118 has set out the overall objective of the destruction of chemical weapons in Syria and the roadmap for the follow-up work. The Chinese side is ready to send experts to participate in relevant work and provide financial support in this regard. We hope that the relevant parties will stay in close cooperation, fulfill their respective responsibilities and implement the OPCW decision and Security Council resolution in a comprehensive and accurate manner so as to eventually achieve a proper settlement of the issue of chemical weapons in Syria.<sup>4</sup>

*Treaty Action — Biological Weapons Convention (BWC)*

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<sup>3</sup> See also Permanent Mission of the People's Republic of China to the UN, *Statement by H.E. Ambassador Wu Haitao, Head of the Chinese Delegation at the General Debate of the First Committee of the 68th Session of the United Nations General Assembly, 8 October 2013* <<http://www.china-un.org/eng/hyyfy/t1086012.htm>>; Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. ZHANG Jun'an, Counselor of the Chinese Delegation, on Nuclear disarmament at the Thematic Debate at the First Committee of the 68th Session of the UNGA, 23 October 2013* <<http://www.china-un.org/eng/hyyfy/t1092703.htm>>.

<sup>4</sup> See also Permanent Mission of the People's Republic of China to the UN, *Statement by H.E. Ambassador WU Haitao, Head of the Chinese Delegation at the General Debate of the First Committee of the 68th Session of the UNGA, 8 October 2013* <<http://www.china-un.org/eng/hyyfy/t1086012.htm>>; Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. YIN Haigang of the Chinese Delegation at the Thematic Debate on Chemical Weapons at the First Committee of the 68th Session of the UNGA, 24 October 2013* <<http://www.china-un.org/eng/hyyfy/t1093981.htm>>.

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- Permanent Mission of the People's Republic of China to the United Nations Office in Geneva and Other International Organizations in Switzerland, *Statement by H.E. Ambassador WU Haitao, Head of the Chinese Delegation at the 2013 Meeting of States Parties to the Biological Weapons Convention*, 9 December 2013  
<<http://www.china-un.ch/eng/hom/t1107037.htm>>

On 9 December 2013, a Chinese representative made a statement at the 2013 Meeting of State Parties to the BWC. He said:

International cooperation to promote peaceful use of biotechnology remains one of the prominent pillars of the Convention. It helps enhance the implementation capability of States Parties, as well as promote the sustainable and healthy development of the Convention. States Parties should work together to actively implement Article X of the Convention, and further explore initiatives and measures to promote international cooperation, taking the reasonable demands of the developing countries into full account, in order to enable more States Parties, especially the developing countries to truly benefit from international cooperation. Timely assessing the impacts of the development in bioscience and biotechnology on the Convention, preventing the misuse of bioscience and biotechnology, as well as strengthening biosafety and biosecurity and sharing experiences and practices of management, are beneficial to the promotion of the effective implementation of the Convention. In order to jointly confront all kinds of biosafety and biosecurity risks and threats, and guarantee that bioscience and biotechnology could better benefit mankind, more efforts should be made to encourage States Parties to reinforce capacity building in biosafety and biosecurity according to their national conditions, as well as to balance the development of bioscience and biotechnology with necessary biosafety and biosecurity supervision. Measures to strengthen national implementation such as the establishment of national implementation mechanism, the promulgation of relevant laws and regulations, as well as the establishment of regulations on biosafety and biosecurity management, are important guarantees for States Parties to fulfill the obligations of the Convention and improve its effectiveness. In recent years, States Parties have made unremitting efforts to strengthen national implementation. States Parties should be encouraged to continue sharing experience in national implementation and strengthening national implementation in a progressive manner. Meanwhile, it should be noted that the best compliance mechanism under the Convention is to conclude a protocol with a verification regime to enhance the effectiveness of the Convention comprehensively. The Confidence-Building Measures (CBMs) is an important means for States Parties to demonstrate commitments to the Convention and enhance mutual trust. China attaches importance to the CBMs, and has submitted annual CBMs data in a timely manner. Currently, the low rate of submission is the major challenge to the CBMs. According to the Final Document of the 7th Review Conference, efforts should be focused on encouraging more States Parties to submit CBMs data. Meanwhile, the CBMs submission is not obligatory in nature, thus national conditions and capacity of different States Parties should be taken into account when revision in the content of CBM forms being considered, and relevant discussions should follow the mandate of the Review Conference.

*Treaty Action — Convention on Certain Conventional Weapons (CCW)*

- Permanent Mission of the People's Republic of China to the United Nations Office in Geneva and Other International Organizations in Switzerland, *Statement by H.E. Ambassador Wu Haitao, at the Meeting of the High Contracting Parties to the Convention on Certain Conventional Weapons*, 14 November 2013

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<<http://www.china-un.ch/eng/hom/t1105170.htm>>

On 14 November 2013, Chinese representative made a statement at the Meeting of the High Contracting Parties to the CCW. He said:

The Chinese government attaches great importance to the humanitarian concerns caused by the indiscriminate use of certain conventional weapons, and has always been actively engaged in the process of conventional arms control. China supports constant reinforcement and improvement of the legal mechanisms for conventional weapons disarmament, on the basis of striking the balance between military security requirement and humanitarian concerns. All parties should promote military mutual trust with wide participation and consultation on the basis of equality, so as to promote the work of the Convention to greater progress. As a full Contracting Party to the Convention and its five Protocols, China attaches importance to and supports all the work under the CCW, and strictly implements its obligation under the Convention and its Protocols. China has been actively engaged in relevant international exchange and cooperation, timely submitted its national report, and constructively participated in relevant meetings of experts. China also continues its efforts on promoting the universality of the Convention, and has made annual contribution of 10,000 USD to the Sponsorship Programme to assist developing countries in participating relevant conferences and activities under the framework of the Convention. ... In 2013, China has hosted demining training courses for Sudan, South Sudan and Laos in China, and will soon dispatch a team of experts to Cambodia for onsite training. China has also worked on the delivery of victim assistance to Sri Lanka and Jordan.

*Treaty Action — Amended Protocol II to the CCW*

- Permanent Mission of the People's Republic of China to the United Nations Office in Geneva and Other International Organizations in Switzerland, *Statement by the Chinese Delegation at the 15th Annual Conference of the High Contracting Parties to Amended Protocol II of CCW*, 13 November 2013  
<<http://www.china-un.ch/eng/hom/t1105157.htm>>

On 13 November 2013, a Chinese representative made a statement at the 15th Annual Conference of the High Contracting Parties to Amended Protocol II of the CCW. He said:

The Chinese government has always attached great importance to the humanitarian concerns caused by landmines and faithfully implemented its obligation under the Amended Protocol II of CCW. Over the past year, China has allocated a great amount of human and material resources in this regard, steadily promoting the implementation of AP II.

The Chinese military forces continue to destroy outdated anti-personal landmines and other explosive ordinance, which do not meet the requirements of AP II. At the same time, a series of training courses for military personnel to better understand and implement the Protocol have been carried out. The focus has also been put on training demining staff, raising public awareness, and conducting research on demining technologies such as the destruction of mines and the use of mine detecting dogs. A series of publications on demining techniques have been compiled and published during the reporting period.

*Treaty Action — Ottawa Convention*

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- Permanent Mission of the People's Republic of China to the United Nations Office in Geneva and Other International Organizations in Switzerland, *Statement by the Chinese Observer Delegation at the 13th Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction*, 2 December 2013  
<<http://www.china-un.ch/eng/hom/t1105153.htm>>

On 2 December 2013, a Chinese representative made a statement at the 13th Meeting of the State Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention). He said:

Since its entry into force, the Convention has played a positive role in addressing the humanitarian concerns caused by Anti-Personnel Landmines (APLs). The Chinese Government always attaches great importance to the humanitarian concerns caused by APLs, and supports the international efforts to address these concerns. China has not joined the Convention due to legitimate national defense necessities. However, China endorses its purposes and objectives, and appreciates the humanitarian spirit reflected therein. 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 positive attitude towards the Convention.

As a High Contracting Party to the Amended Protocol on Landmines of CCW, China has always faithfully fulfilled its obligations under this protocol. China is and will continue to observe its commitment on not exporting APLs. Since 1990s, China has conducted several rounds of comprehensive and large-scale demining operations, which has to a great extent eliminated the scourge of landmines on our territories. Furthermore, China strengthened demining capacity-building and persevered an effective demining team composed of elite staff members, which constitute a firm basis for China's further contribution to international mine action. With regard to the research and development of demining technology, China also invested heavily and has already developed series of cost-effective demining technologies and equipments [sic] in line with International Mine Action Standards (IMAS). The studies on animal detection method and mechanical demining techniques have already made substantive progress.

China attaches importance to international exchange and cooperation on mine issues. Recently, the Special Envoy of the Ottawa Convention, H.H Prince Mired of Jordan visited China at the invitation of the Chinese government, and had in-depth exchange of views with Chinese officials on China's mine policies and practices. During his visit, he also observed the demining training courses designated for Lao PDR and exhibitions of Chinese demining technologies and equipments [sic]. We believe, this visit will enhance the understanding of the international community on China's policy on mines and its efforts on humanitarian demining assistance.

*Treaty Action — Convention on Cluster Munitions (CCM)*

- Dong Zhihua, Head of the Chinese Observer Delegation, Counsellor of the Department of Arms Control and Disarmament, Ministry of Foreign Affairs, China, *Statement at the Fourth Meeting of the States Parties to the Convention on Cluster Munitions*, 10 December 2013  
<<http://www.clusterconvention.org/files/2013/09/Statement-by-Chinese-Observer-Delegation-CCM-4MSP.pdf>>

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On 10 September 2013, a Chinese representative made a statement at the Fourth Meeting of the State Parties to the Convention on Cluster Munitions in Lusaka, Zambia. She said:

China is of the view that irresponsible use and transfer is the main cause of global humanitarian concerns over cluster munitions. To resolve disputes through political and diplomatic means in full compliance with the UN Charter is the fundamental safeguard against further damages caused by cluster munitions. It is of vital importance to explicitly establish the 'the user to clear' principle, i.e. the users of cluster munitions shall bear the responsibility for clearance of cluster munition remnants. The stark reality on the ground also calls for enhanced international cooperation with emphasis on mobilizing more support for developing countries severely affected by cluster munitions and providing victims with timely and effective assistance. ... China appreciates the spirit of humanitarianism embodied in CCM and is ready to cooperate with the States Parties to the Convention.

*Treaty Action — Protocol V to the CCW (ERW)*

- Permanent Mission of the People's Republic of China to the United Nations Office in Geneva and Other International Organizations in Switzerland, *Statement by Chinese Delegation at the Seventh Conference of the High Contracting Parties to Protocol V on Explosive Remnants of War*, 11 November 2013  
<<http://www.china-un.ch/eng/hom/t1105156.htm>>

On 11 November 2013, a Chinese representative made a statement at the Seventh Conference of the High Contracting Parties to the Protocol V to the CCW. He said:

China always attaches great importance to humanitarian concerns caused by ERW. Since its ratification of Protocol V in 2010, China has invested significant resources, strengthened relevant compliance mechanisms and submitted its annual national reporting forms, with a view to fully implementing Protocol V. As generic preventive measures, China has established a comprehensive monitoring system on explosives, and put in place such measures as licensing, classification, lifecycle monitoring, risk assessment and accountability. Chinese Public Security authority has already established an information management system on explosives for civilian use, which will put lifecycle registration and monitoring on the production, storage, shipment, transfer and use of explosives. These measures are effective in preventing diversion of explosives, and thus contributing to protection of life and properties of citizens and regional peace and stability. ... On the issue of clearance, removal or destruction of ERW, the Chinese military and the Public Security authority continued to dispose ERWs and other explosive ordinance last year, with over 120,000 ERWs of different type properly handled or destroyed. ... The problem of ERW cannot be solved overnight. Long-term attention and unremitting efforts by all parties are needed. Therefore, 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.

*Government Policy — Improvised Explosive Devices (IEDs)*

- Permanent Mission of the People's Republic of China to the United Nations Office in Geneva and Other International Organizations in Switzerland, *Statement by the Chinese*

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*Delegation at the 15th Annual Conference of the High Contracting Parties to Amended Protocol II of CCW*, 13 November 2013  
<<http://www.china-un.ch/eng/hom/t1105157.htm>>

On 13 November 2013, a Chinese representative made a statement at the 15th Annual Conference of the High Contracting Parties to Amended Protocol II of the CCW. He said:

China attaches high importance to humanitarian concerns caused by the use of IEDs by non-state actors and welcomes discussions with parties concerned under the framework of the CCW. We appreciate the efforts made by the Coordinator of the IEDs. The Chinese government has exercised strict control over the production, sale, purchase, import, export, transport, storage of explosive ordinance in accordance with Chinese laws and regulations. China believes that IEDs' low threshold for production, dual-use nature of relevant materials, bring difficulties and challenges to the relevant supervision. The international community should take a practical approach to the IEDs issue and gradually promote the work in this regard. The developed countries should actively extend assistance to developing countries in the areas of capacity building, funding and technology.<sup>5</sup>

*Government Policy — Lethal Autonomous Robots*

- Permanent Mission of the People's Republic of China to the United Nations Office in Geneva and Other International Organizations in Switzerland, *Statement by H.E. Ambassador Wu Haitao, at the Meeting of the High Contracting Parties to the Convention on Certain Conventional Weapons*, 14 November 2013  
<<http://www.china-un.ch/eng/hom/t1105170.htm>>

On 14 November 2013, a Chinese representative made a statement at the Meeting of the High Contracting Parties to the Convention on Certain Conventional Weapons. He said:

We note that the humanitarian aspect of the use of unmanned military platforms including lethal 'autonomous robots' has caused growing international concern. Generally speaking, China is open to relevant discussions under the CCW framework. Given the complicated legal, humanitarian and military factors involved, in-depth study on relevant definition, scope, application of laws of the issue is needed, so as to gradually build consensus.

*Treaty Action — Arms Trade Treaty (ATT)*

- Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. Wu Jianjian of the Chinese Delegation at the Thematic Debate on Conventional Arms at the First Committee of the 68th Session of the UNGA*, UN Doc. A/67/PV.71, 29 October 2013, p. 15  
<<http://www.china-un.org/eng/hyyfy/t1094489.htm>>

On 2 April 2013, a Chinese representative made an explanatory statement on her abstention from voting in the adoption of the Arms Trade Treaty (ATT) by the UNGA. She explained:

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<sup>5</sup> See also Permanent Mission of the People's Republic of China to the UN, *Statement at the thematic debate on conventional arms at the First Committee of the 68th Session of the UNGA*, 29 October 2013 <<http://www.china-un.org/eng/hyyfy/t1094489.htm>>; Permanent Mission of the People's Republic of China to the UN, *Statement made by Chinese representative Mr. HE Yi at the Fourth Committee of the 68th UNGA on assistance in mine action*, 1 November 2013 <<http://www.china-un.org/chn/hyyfy/t1097112.htm>>.

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China would support a treaty reached through consensus. China is not in favour of pushing through a multilateral arms control treaty at the General Assembly that concerns international security and the security of all nations. We are very concerned about the possible negative precedent for multilateral arms control negotiations. We should insist on negotiating to reach a treaty acceptable to all parties through consensus. Only by doing so can we ensure the universal support and effective implementation of the Treaty. Regrettably, however, resolution 67/234 B, on the Arms Trade Treaty, does not address China's concerns. Therefore, China abstained in the voting. We do not believe that it will set a precedent for future arms-control-treaty negotiations.<sup>6</sup>

On 29 October 2013, a Chinese representative made a statement at the thematic debate on conventional arms at the First Committee of the 68th Session of the UNGA. He said:

China supports the international efforts to regulate international arms trade and played a constructive role in the negotiation of the Arms Trade Treaty. China has no substantive difficulties with the content of the treaty and is seriously looking into the issue of signing the treaty. China will continue working closely with the international community in efforts to properly tackle the issue of illicit trade in conventional arms.

*Government Policy — Small Arms and Light Weapons*

- Permanent Mission of the People's Republic of China to the UN, UN Doc. S/PV.7036, 26 September 2013, pp. 17–18  
<<http://www.china-un.org/chn/hyyfy/t1081737.htm>> (in Chinese)

On 26 September 2013, a Chinese representative made a statement at the UNSC high level meeting on small arms and light weapons. He said:

Over the years, China has taken an active part in international cooperation in this area and improved its domestic management of the small arms trade, thereby contributing to efforts to combat the illicit trade in small arms and light weapons.

First, we have enhanced legislation, law enforcement and capacity-building. The Chinese Government has exerted strict controls over small arms and light weapons in accordance with the law of the People's Republic of China on the control of firearms and other laws and regulations. We have promulgated precise regulations for small-arms marking that provide for the detailed marking of small arms and light weapons, and put in place an information system for the management of guns used for official purposes. Chinese law enforcement departments have carried out several special campaigns to confiscate guns and combat violence. As a result, the gun-related crime rate has gone down year after year, contributing to continued social stability and the safety of people and their property.

We have actively engaged I bilateral and multilateral exchanges and cooperation and in providing foreign assistance. The competent departments in China have played an active role in international exchanges and practical cooperation. We have provided assistance to other countries and multilateral organizations in the form of capital, technology and personnel training within the frameworks of the United Nations, the Organization of American States, the Forum on China-Africa Cooperation, the Association of Southeast Asian Nations and the Shanghai Cooperation Organization. In addition, China has

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<sup>6</sup> See also Permanent Mission of the People's Republic of China to the UN, *Statement by H.E. Ambassador WU Haitao, Head of the Chinese Delegation at the General Debate of the First Committee of the 68th Session of the UNGA*, 8 October 2013 <<http://www.china-un.org/eng/hyyfy/t1086012.htm>>.



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provided assistance in various forms to approximately 40 countries in Asia, Africa and Latin America in order to help them address humanitarian crises that have been triggered by mines and explosive remnants of war.

Thirdly, China has adopted a prudent and responsible approach towards the export of small arms and light weapons. Acting in strict compliance with the principles of never impairing regional peace and security and of non-interference in the internal affairs of recipient countries, China has exported no small arms and light weapons to countries or regions that are subject to Security Council arms embargoes or to non-State entities and individuals. The Chinese Government has put in place a sound arms-export control system that includes end-user certification and export licensing, among other things. In particular, China has established a record-keeping system for the export of small arms and light weapons.<sup>7</sup>

*Government Policy — Crimes against Humanity*

- Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. Huang Huikang Director-General of the Department of Treaty and Law of the Ministry of Foreign Affairs of China At the 68th Session of the UN General Assembly On Agenda Item 81 Report of the 65th Session of the International Law Commission (Part 1)*, 30 October 2013  
<<http://www.china-un.org/eng/hyyfy/t1095251.htm>>

On 30 October 2013, a Chinese representative made a statement at the 68th Session of the UNGA on the report of the 65th Session of the International Law Commission (Part I). He said:

As to the topic 'Crimes against humanity' newly added in the long-term program of work, the Chinese delegation holds the view that, taking into consideration the complexity and sensitivity of this topic, the Commission should deal with it in a prudent manner and avoid any pre-determined results before wide consensus is reached by states.

*Government Policy — Scope and Application of Universal Jurisdiction*

- Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. Xiang Xin Chinese Delegate At the 68th Session of the UN General Assembly On Agenda Item 86 Scope and Application of the Principle of Universal Jurisdiction*, 17 October 2013  
<<http://www.china-un.org/eng/hyyfy/t1091531.htm>>

On 17 October 2013, a Chinese representative made a statement at the 68th Session of the UNGA on scope and application of the principle of universal jurisdiction. He said:

The Chinese delegation appreciates the efforts made and the progress achieved by the Sixth Committee and its Working Group in the discussion of the issue of universal jurisdiction. We are in favor of the approach taken by the Working Group of limiting the scope of this item to universal criminal jurisdiction of domestic courts. This is the fifth year that the GA considers the item of universal jurisdiction. The discussions and written comments submitted by member states demonstrate that there are still divergent views among states with regard to the issues of the definition, the scope and the application of

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<sup>7</sup> See also Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. WU Jianjian of the Chinese Delegation at the Thematic Debate on Conventional Arms at the First Committee of the 68th Session of the UNGA*, 29 October 2013 <<http://www.china-un.org/eng/hyyfy/t1094489.htm>>.

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universal jurisdiction. The Chinese delegation would like to take this opportunity to further elaborate on our views:

First, on definition. Universal jurisdiction refers to criminal jurisdiction exercised according to the nature of a crime regardless of such related factors as the place where the crime is committed, the nationality of the suspect or the victim, or whether the crime has jeopardized national security or major interest of a state. Therefore, universal criminal jurisdiction is different from both the jurisdiction exercised by international criminal judicial organs and the obligation of a state to 'extradite or prosecute' as a means of exercising jurisdiction.

Second, on scope. At present, there is general support for the exercise of universal jurisdiction in case of piracy on the high seas. Apart from this, some states believe that it may also be applicable to serious violations of the Four Geneva Conventions of 1949 in international armed conflicts, while some other states hold the view that some international crimes stipulated in relevant international treaties should be included in the scope of application. The Chinese delegation believes that the scope of application of universal jurisdiction should first and foremost be based on the practical need of this principle. Since universal jurisdiction is aimed at filling the gaps of territorial, personal and protective jurisdictions of states with a view to eliminating impunity, it is necessary to ascertain whether a crime is already covered by the territorial, personal or protective jurisdictions of a state before deciding if the crime should be included in the scope of application of universal jurisdiction. If a state has already established its jurisdiction, be it territorial, personal or protective, over a crime, the necessity to place this crime in the scope of application of universal jurisdiction requires further study. In addition, the decision on the scope of application of universal jurisdiction should be based on existing customary international law and the provisions of international treaties. The aim of this agenda item should be codification rather than development of existing rules of universal jurisdiction.

Third, on application. In establishing and exercising universal jurisdiction, states should act within the existing international legal framework and abide by the fundamental rules and principles of international law enshrined in the UN Charter, including non-violation of sovereignty and non-interference in internal affairs. They should also comply with international legal regulations related to immunity, including that of states, state officials including heads of states, and diplomatic and consular personnel. As universal jurisdiction is supplementary in nature, the priority of territorial, personal and protective jurisdictions of a state must be respected. Only in cases where no state has established or exercised territorial, personal or protective jurisdictions can states concerned exercise universal jurisdiction.

Universal jurisdiction is a sensitive issue of international law with a bearing on the stability and healthy development of international relations and the world order. Improper legislation or application of universal jurisdiction may create negative impacts on international relations and affect normal inter-state exchanges. The Chinese delegation is of the view that the issue of universal jurisdiction should be considered in a prudent and balanced manner and decided by consensus. China supports the continuation of the exchange of views within the framework of the Working Group and is willing to enhance communication with others to bridge differences and work for consensus.

*Government Policy — Immunity of State Officials from Foreign Criminal Jurisdiction*

- Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. Huang Huikang Director-General of the Department of Treaty and Law of the Ministry of Foreign Affairs of China At the 68th Session of the UN General Assembly On Agenda*

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*Item 81 Report of the 65th Session of the International Law Commission (Part 1)*, 30 October 2013

<<http://www.china-un.org/eng/hyyfy/t1095251.htm>>

On 30 October 2013, a Chinese representative made a statement at the 68th Session of the UNGA on the report of the 65th Session of the International Law Commission (Part I). He said:

The Special Rapporteur rightly defined the scope of the topic as immunity of state officials from criminal jurisdiction of another state, thus excluding immunity of state officials from jurisdiction of international criminal tribunals and immunity of such officials as diplomatic agents, consulate officials covered under special rules. The Commission eventually adopted the three draft articles on scope and *ratione personae* following their consideration in the Drafting Committee. On persons enjoying immunity *ratione personae*, we are of the view that while there is a general common understanding among the international community that heads of state, heads of government and foreign ministers (*troika*) enjoy immunity *ratione personae*, international practice does not exclude the possibility of the same kind of immunity being granted to some other high-level officials. In its judgments on the Arrest Warrant case and *Djibouti v. France*, the International Court of Justice did not in any way limit immunity *ratione personae* to the *troika* only. In the jurisprudence of some domestic jurisdictions, this immunity is granted to such high level officials as ministers of commerce and ministers of defense. Statements by delegations at the last session of the 6th Committee showed that more countries were open-minded about it and did not propose this particular limit.

*Government Policy — International Criminal Court (ICC)*

- Permanent Mission of the People's Republic of China to the UN, *Statement by Mr. Huang Huikang Director-General of the Department of Treaty and Law of the Ministry of Foreign Affairs of China At the 68th Session of the UN General Assembly On Agenda Item 75 Report of the International Criminal Court*, 31 October 2013  
<<http://www.china-un.org/eng/hyyfy/t1095252.htm>>
- Ma Xinmin, Counsellor of the Department of Treaty and Law, Ministry of Foreign Affairs of the People's Republic of China, *Statement at the Twelfth Session of the Assembly of States Parties to Rome Statute of the International Criminal Court*, November 2013  
<[http://www.icc-cpi.int/iccdocs/asp\\_docs/ASP12/GenDeba/ICC-ASP12-GenDeba-China-ENG.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/ASP12/GenDeba/ICC-ASP12-GenDeba-China-ENG.pdf)>

On 31 October 2013, a Chinese representative made a statement at the 68th Session of the UNGA on the report of the International Criminal Court. He said:

First, on the relationship between the UN and the ICC, China supports cooperation between the two bodies in a manner that conforms to the UN Charter, Security Council resolutions, and the Relationship Agreement between the UN and the ICC. The UN and the ICC are closely linked as follows. As one of the trigger mechanisms for ICC jurisdiction, the UN, through the Security Council, has the right to refer situations to the ICC. As control mechanism for the ICC, the UN Security Council may request in a resolution adopted under Chapter 7 of the UN Charter that no investigation or prosecution be commenced or proceeded for a period of 12 months, which is legally binding for the ICC, and the Security Council may renew such a request under the same conditions. China believes that in order for the cooperation between the two bodies to

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help fulfill their respective functions and goals, the UN and the ICC must carry out cooperation within the legal framework specified in the UN Charter, Security Council resolutions, and the Relationship Agreement between the UN and the ICC. This is the only way for both sides to derive benefits from the cooperation.

Second, with regard to the principle of complementarity of ICC jurisdiction, China believes that with ICC becoming fully operational, effective implementation of the complementarity principle has taken on greater importance. Under the principle of complementarity, a national court has the primary role in the jurisdiction and trial of international crimes. Only when a state is unable or unwilling to deal with the international crimes involved can the ICC step in to complement the national court vis-à-vis the cases. However, in practice, disputes may arise over whether a particular case falls under the purview of the court of the country concerned or the ICC. China has noted that multiple recent controversies over cases involving certain African countries handled by the ICC have given rise to resentment and worries on the part of the countries concerned and some African countries. China is deeply concerned at this development. We maintain that the ICC must strictly comply with the complementarity principle, fully respect the needs and wishes of national courts to handle cases themselves, give positive consideration to the legitimate demands of regional organizations concerned, and take actions to assist with national capacity building so as to promote effective jurisdiction by countries concerned over the relevant cases.

Third, China wishes to reiterate that we support the international community in its endeavor to punish serious international crimes and deliver judicial justice. At the same time, we hope that the ICC will ensure that its efforts to safeguard judicial justice will be conducive to peace and avoid any negative impacts on the situation of countries and regions concerned and the relevant political processes, so that its work will truly advance the well-being of populations on the ground. China will continue to follow the ICC's work and hopes that the ICC will win wider confidence and support through its practice.

On 21 November 2013, a Chinese representative made a statement at 12th Session of the Assembly of State Parties to the Rome Statute as an observer State. He shared some views on the future work of the ICC as follows:

Firstly, the Court should fully respect national jurisdiction's primary role and strictly adhere to the principle of complementarity under the Rome Statute. It is the sovereign state that assumes primary responsibility to punish serious crimes, eliminate impunity and realize the justice. The Court is designed to complement, rather than substitute, national jurisdictions. Thus, the Court must earnestly recognize the sovereign state's primary jurisdiction over the international crimes, and moreover, encourage and support relevant states to exercise their jurisdictions over such crimes, especially by strengthening judicial capacity building based on state's judicial sovereignty. We believe it is the most effective and economic way to end impunity and punish serious international crimes.

Secondly, the Court should pay equal attention to peace and justice. As the core values pursued by the Court, peace and justice complement each other, and should be given equal importance. The Court, especially the Prosecutor, while deciding whether to open investigation and prosecution in various situations, should keep in mind the goal of pursuing both peace and justice. The Court should serve as an effective mechanism to promote justice and secure peace and stability. To equate punishing crimes with justice, sometimes even at the expense of national reconciliation process and regional peace and stability, certainly goes against the purposes and principles of the Rome Statute. At the same time, regarding the relation between peace and justice, especially when the two

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contradict each other, we should not rigidly insist on the absolute priority of one or the other, but take into consideration the practical needs of relevant states and achieve both peace and justice to the maximum. Only in this way, will the fundamental goal of the Court be achieved.

Thirdly, the Court should handle with prudence its relationship with the UN Security Council. The Court and the Security Council are two independent bodies, though interconnected with each other, having common interests in the prevention and punishment of most serious crimes which are of concern to the international community as a whole. The Council is conferred with primary responsibility for the maintenance of international peace and security. And with the power to refer situations to the Court, defer its investigations or prosecutions and determine the existence of act of aggression, the Council can play an important role in promoting accountability for grave crimes threatening the peace and security, while the Court's important mission is to punish such grave crimes. Meanwhile, the two institutions play complementary role to each other in safeguarding peace and justice. In most circumstances, the preventive diplomatic efforts under the Security Council's auspice are by no means excluding but actually conducive to the law enforcement and justice administered by the Court and vice versa. Therefore, the Court and the Council should respect each other's competence, strengthen their cooperation, and formulate a constructive and cooperative partnership in the legal framework established by the UN Charter, relevant resolutions of the UN General Assembly and the Council as well as the Relationship Agreement between the International Criminal Court and the United Nations. Only through this way can both institutions' interests be served well.

Fourthly, cooperation between the Court and States Parties should be enhanced. The Court belongs to all States Parties, and its effective operation and success very much depend on its cooperation with these States Parties. As a newly born international institution of criminal justice, the establishment of the Court's credibility rests upon consensus among these States Parties and their recognition thereof. Recently, the Court's dealing with Kenyan national leaders' appearing before the Court invites widespread controversy. We have taken note that the Court has decided to defer the said case until early next year, and we hope the Court will respect the legitimate concerns of African states, show flexibility allowed under the Rome Statute, solidify the consensus from more States Parties, and secure more support from international organizations, in seeking best solution to the issue. At the same time, China would like to emphasize that the rights and entitlements enjoyed by non-States Parties under international law should be accorded due respect, and no obligation on cooperation can be imposed on them in this regard.

Fifthly, all states and parties related to conflicts should be treated on equal basis. Equality is the inherent demand of justice. All states and parties related to conflicts should be treated equally before the Court and its Rome Statute. All laws should be applied with the same equality, and no distinction should be made to different parties in every step of the proceedings of the Court, from situation referral, investigation to trial of a case or compensation stage. Any double standard, selective enforcement of law or selective justice is a violation and betrayal of justice itself.

Sixthly, both punishment of crimes and compensation to victims should be taken into account. While punishing the most serious international crimes and reparations to victims are two main goals of the Court, the work of the Court should pay attention to the reparations and let them play their full role in the protection of victims' interests as well as punishing the most serious international crimes.

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**CORRESPONDENTS' REPORTS**

*Government Policy — ICTY and ICTR*

- United Nations Security Council, Report, 6977<sup>th</sup> meeting, UN Doc. S/PV.6977, 12 June 2013, p. 23

On 12 June 2013, a Chinese representative made a statement on the report of the ICTY and ICTR before the UNSC. He said:

[w]e have noted that the two Tribunals still face some difficulties in their related judicial activities and administration. As mentioned earlier by the previous speakers, there are still nine fugitives within the jurisdiction of the ICTR. Therefore, there remain potential cases involving the arrest of fugitives and the placement of those convicted and sentenced. We call upon the countries concerned to continue their cooperation with the two Tribunals and to arrest the fugitives at large. At the same time, we also hope that the countries able to do so will provide the necessary assistance to the two Tribunals in areas such as the placement of those sentenced. We also take note of Serbia's proposal with regard to the serving of sentences, which we think is very important.<sup>8</sup>

*Peacekeeping Operations — The First Security Force in Chinese Peacekeeping Operations*

- <[http://news.mod.gov.cn/headlines/2013-12/03/content\\_4477618.htm](http://news.mod.gov.cn/headlines/2013-12/03/content_4477618.htm)>

On 3 December 2013, China dispatched 135 military officers to Mali in order to implement the peacekeeping operation of eight months. This is the first time that Chinese peacekeeping personnel have been dispatched as a security force since the Chinese army participated in the UN peacekeeping operations in 1990. Since the formation of this security force on 12 July 2013, they have been intensively trained. Among other things, the peacekeeping personnel have been instructed in Chinese Regulation on peacekeeping operations, political disciplines, organizational disciplines, foreign affairs disciplines, the UN Code of Conduct for peacekeepers, as well as the laws, regulations and customs of the host State.

ZHU LIJIANG

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<sup>8</sup> See also United Nations Security Council, Report, 7073<sup>th</sup> meeting, UN Doc. S/PV.7073, 5 December 2013, p. 5.