STATEMENT BY AMBASSADOR MANJEEV SINGH PURI, DEPUTY PERMANENT REPRESENTATIVE, ON AGENDA ITEM 86 "THE SCOPE AND APPLICATION OF THE PRINCIPLE OF UNIVERSAL JURISDICTION" AT THE SIXTH COMMITTEE OF THE 68TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON OCTOBER 17, 2013

Mr. Chairman,

I thank the Secretary-General for his reports A/68/113 on "The scope and application of the principle of universal jurisdiction', which provides information about the laws and practice of certain States concerning the universal jurisdiction.

My delegation aligns with the statement made by the distinguished representative of the Islamic Republic of Iran on behalf of the Non-Aligned Movement (NAM), and offers the following comments in the national capacity.

Mr. Chairman,

India holds the firm view that those who commit crimes must be brought to justice and punished. A criminal should not go scot free because of procedural technicalities including the lack of jurisdiction.

Mr. Chairman,

Exercise of jurisdiction is a unique legal subject in itself. The term "jurisdiction" connotes the power or the right of a State, which in legal parlance refers to two aspects: first, the rule-making; and second, the rule-enforcing. The widely recognized bases for the exercise of jurisdiction include: Territoriality, which is based on the place of the commission of offence; Nationality, which is based on the nationality of the accused. Some States recognise the nationality of victim also, as basis for exercising jurisdiction; and Protective principle, which is based on the national interests affected. The common feature of these jurisdictional theories is some connection between the State asserting jurisdiction and the offence.

Mr. Chairman,

Under the present agenda item, we are however deliberating upon a different type of jurisdictional basis, namely the universality theory.

A State invoking the universal jurisdiction claims to exercise jurisdiction over an offender, irrespective of his or her nationality or the place of commission of the offence, and without any link between that State and the offender.

It assumes that each State has an interest in exercising jurisdiction to prosecute offences which all nations have condemned. The rationale for such jurisdiction is the

nature of certain offences, which affect the interests of all States, even when they are unrelated to the State assuming jurisdiction.

Mr. Chairman,

Under general international law, piracy on the high seas is the only one such crime, over which claims of universal jurisdiction is undisputed. We consider that the principle of universal jurisdiction in relation to piracy has been codified in the UN Convention on the Law of the Sea, 1982.

In respect of certain serious crimes like genocide, war crimes, crimes against humanity and torture, etc., international treaties have provided basis for the exercise of universal jurisdiction. This is applicable between the States parties to those treaties. They include, among others, the Four Geneva Conventions of 1949 and the Apartheid Convention.

Mr. Chairman,

The question that arises is whether the jurisdiction provided for specific serious international crimes under certain treaties could be converted into a commonly exercisable jurisdiction, irrespective of the fact whether or not the other State or States are a party to those treaties.

Several issues remained unanswered, including those related to the basis of extending and exercising such jurisdiction, the relationship with the laws relating to immunity, pardoning and amnesty, and harmonization with domestic laws.

Mr. Chairman,

Several treaties oblige the States parties either to try a criminal or handover for trial to a party willing to do so. This is the obligation of *aut dedere, aut judicare* ("either extradite or prosecute"). This widely recognised principle, including by the International Court of Justice in its decision of 20 July 2012 in the Belgium Vs Senegal case, should not be confused with or short circuited by the universal jurisdiction.

I thank you Mr. Chairman.

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