

**Scope and application of the  
principle of universal jurisdiction**

**STATEMENT**

**BY**

**MR. STEFAN BARRIGA**

**DEPUTY PERMANENT REPRESENTATIVE  
OF THE PRINCIPALITY OF LIECHTENSTEIN  
TO THE UNITED NATIONS**

**NEW YORK, 15 OCTOBER 2010**

CHECK AGAINST DELIVERY

Madam Chair,

As we are approaching the end of a very rich debate in the Sixth Committee on the “scope and application of the principle of universal jurisdiction”, my delegation would like to take this opportunity to offer some comments in response to the discussion we have had so far.

- It appears to us that while there are discussions about the scope and application of the principle of universal jurisdiction, there remains general agreement on the main underlying rationale of this principle, namely the goal of ending impunity for the most serious crimes of international concern.
- There is furthermore no question that the primary responsibility to prosecute perpetrators rests with those States on whose territory the crimes were committed. Other jurisdictional links, such as the nationality of the perpetrator as well as the nationality of the victims, are also universally accepted.
- As for the scope of universal jurisdiction, we are of the view that existing treaty law and customary international law are sufficiently clear. At the same time, we would not oppose if the General Assembly were to mandate the ILC to study the matter, in particular since the Commission is already dealing with the topic *aut dedere aut judicare*.
- Universal jurisdiction only relates to domestic jurisdiction and must be clearly distinguished from international courts and tribunals, in particular the ICC. The Rome Statute only governs the jurisdiction of the International Criminal Court itself and is not a basis for universal jurisdiction. This debate in the Sixth Committee is therefore not the place to discuss the activities of the ICC, which has its own agenda item in plenary.

- Regarding the application of the principle, we note that norms of international law relating to immunities of State officials from foreign jurisdiction do not differentiate according to the basis for jurisdiction applied in a particular case. The principle of universal jurisdiction therefore does not as such raise particular questions in this regard. The ICJ stated in the Arrest Warrant case that *“the rules governing the jurisdiction of national courts must be carefully distinguished from those governing jurisdictional immunities. Jurisdiction does not imply absence of immunity, while absence of immunity does not imply jurisdiction.”* We also note that the topic of immunities is currently dealt with by the ILC.
- As far as potential and actual disputes between States over the application of universal jurisdiction or other forms of jurisdiction are concerned, we see no need for the establishment for any new regulatory mechanism. The States involved should use existing mechanisms for dispute resolution, in particular the ICJ, as was done successfully in the Arrest Warrant case.

I thank you.