Abstract

This Survey covers materials reflecting Chinese practice in 2017 relating to: treaties, agreements and other documents signed or ratified by the People’s Republic of China; national legislation; statements made by Chinese representatives at the meetings of the UN and other international organizations, international conferences, and those made by the Foreign Ministry spokespers, with respect to various branches of international law; and judicial decisions, in particular on the applicability and application of international conventions, by Chinese courts.

I. Treaties, agreements and other documents

I.A. China-Canada Joint Statement on Climate Change and Clean Growth

1. On 4 April 2017, the Governments of China and Canada issued the China-Canada Joint Statement on Climate Change and Clean Growth. It read, in part,

3. China and Canada welcome the entry into force of the Paris Agreement, adopted under the United Nations Framework Convention on Climate Change

* Note by the Editors: This survey is provided only for information. Readers are advised to consult the official documents themselves in their research. In international dealings, the Chinese government normally uses Chinese. The English quotations in this Survey are therefore normally translations, but they are taken from official web sites or another official source, unless otherwise noted. The abbreviations used in the quotations are from those official websites. Through this survey, “FM” stands for “Foreign Ministry”, “UN” for “United Nations”, “UNGA” for “United Nations General Assembly”, and “UNSC” for “United Nations Security Council”.

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(UNFCCC), which, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change. They reiterated that the Paris Agreement is irreversible and that it will not be renegotiated. They reaffirm their strong commitment to the Paris Agreement, moving swiftly towards its full and effective implementation reflecting equity and in accordance with the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances, and will move forward on policies and measures to implement their respective nationally determined contributions (NDCs). They call on all Parties to uphold and advance the Paris Agreement, to implement their NDCs and to strengthen their efforts over time, in accordance with the relevant provisions of the Agreement.1

I.B. Treaty on Exchange of Convicted Criminals between China and Tajikistan

2. On 27 April 2017, the Standing Committee of the 12th National People’s Congress decided to ratify the Treaty on Exchange of Convicted Criminals between the People’s Republic of China and the Republic of Tajikistan, which was signed by a representative of China on 13 September 2014 in Dushanbe, Tajikistan.2

I.C. Agreement on Cooperation and Interaction of the Member States of the Shanghai Cooperation Organization on Border Issues

3. On 27 April 2017, the Standing Committee of the Twelfth National People’s Congress decided to ratify the Agreement on Cooperation and Interaction of the Member States of the Shanghai Cooperation Organization on Border Issues, which was signed by a representative of China on 5 July 2015 in Ufa, Russia.3

I.D. Joint Communiqué of the People’s Republic of China and the Socialist Republic of Vietnam

4. On 15 May 2017, the Governments of China and Vietnam issued a Joint Communiqué of the People’s Republic of China and the Socialist Republic of Vietnam, which reads, in part:

11. The two sides discussed the sea-related issues in a candid and sincere manner, underlined the need to observe the consensus reached by leaders of the two Parties and countries and the “Agreement on Basic Principles Guiding the Settlement of Sea Issues between China and Vietnam”, and agreed to make the best use of the governmental-level negotiating mechanism on border and territory and to pursue negotiations and friendly consultations in search of fundamental and long lasting solutions acceptable to both sides.

The two sides agreed to well implement follow-up work after finishing the joint field survey in the area off the mouth of the Gulf of Tonkin, accelerate negotiations on demarcating the area beyond the mouth of the Tonkin Gulf, promote cooperation for joint development in the waters, continue to promote the efforts of the working group on cooperation for joint development at sea, and effectively implement cooperation projects in less sensitive fields as agreed previously. […] Both sides agreed to continue to fully and effectively implement the Declaration on the Conduct of Parties in the South China Sea (DOC), work towards the early formation of a Code of Conduct of Parties in the South China Sea (COC) on the basis of consensus consultation, effectively control disputes at sea, and avoid actions that would further complicate or expand disputes, so as to maintain peace and stability in the South China Sea.  

I.E. Joint Communiqué of the Leaders Roundtable of the Belt and Road Forum for International Cooperation

5. On 15 May 2017, Chinese President XI Jinping, joined by a number of heads of state and government and global dignitaries, attended the Leaders Roundtable of the Belt and Road Forum for International Co-operation in Beijing. A joint communiqué was issued at the conclusion of the event, which read as follows, in part:

7. We reaffirm our shared commitment to build open economy, ensure free and inclusive trade, oppose all forms of protectionism including in the framework of the Belt and Road Initiative. We endeavor to promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system with WTO at its core. […]

16. Our joint endeavor on the Belt and Road Initiative and seeking complementarities with other connectivity initiatives provide new opportunities and impetus for international cooperation. It helps to work for a globalization that is open, inclusive and beneficial to all.

17. We reiterate that promoting peace, mutually-beneficial cooperation, and honoring the purposes and principles of the UN Charter and international law

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4 The English translation is provided by the author. (paper.people.com.cn/rmrb/html/2017-05/16/nw.D110000renmb_20170516_1-06.htm)
are our shared responsibilities; achieving inclusive and sustainable growth and development, and improving people’s quality of life are our common goals; creating a prosperous and peaceful community with shared future for mankind is our common aspiration.5

I.F. Media Note of the Meeting of the BRICS Ministers of Foreign Affairs/International Relations

6. On 18-19 June 2017, the Ministers of Foreign Affairs/International Relations of the Federative Republic of Brazil, the Russian Federation, the Republic of India, the People’s Republic of China, and the Republic of South Africa met in Beijing. A Media Note was issued on 19 June 2017, which read, in part:

4. The Ministers reaffirm their commitment to safeguarding the purposes and principles of the Charter of the United Nations as well as a fair and just international order, upholding the basic norms of international law such as equal sovereignty and non-interference in other countries’ internal affairs, promoting greater democracy and rule of law in international relations, building a brighter shared future for the global community through mutually beneficial international cooperation. They express their commitment to resolutely reject the continued attempts to misrepresent the results of World War II.

5. The Ministers recall the 2005 World Summit Outcome document. They reaffirm the need for a comprehensive reform of the UN, including its Security Council, with a view to making it more representative, effective and efficient, and to increase the representation of the developing countries so that it can adequately respond to global challenges. China and Russia reiterate the importance they attach to the status and role of Brazil, India and South Africa in international affairs and support their aspiration to play a greater role in the UN.

6. The Ministers recommit their strong support to multilateralism and the central role of United Nations in international affairs. They commit to strengthening the coordination and cooperation among BRICS in the areas of mutual and common interest within the United Nations and other multilateral institutions, including through regular meetings among their permanent representatives in New York, Geneva and Vienna and further enhance the voice of BRICS in international fora.

[...] 8. The Ministers welcome the entry into force of the Paris Agreement on climate change on 4 November 2016 and urge all countries to implement the Paris Agreement under the principles of the United Nations Framework Convention on Climate Change including the principles of equity and common

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but differentiated responsibilities and respective capabilities. They further call upon developed countries to fulfill their commitment to provide necessary financing, technology transfer and capacity building support to developing countries.

9. The Ministers deplore the continued terrorist attacks, including in some BRICS countries. They condemn terrorism in all its forms and manifestations wherever committed and by whomsoever. They reaffirm solidarity and resolve in the fight against terrorism, call upon the international community to establish a genuinely broad international counter-terrorism coalition and support the United Nations’ central coordinating role in the international counter-terrorism cooperation. They recall the responsibility of all States to prevent financing of terrorist networks and terrorist actions from their territories. […]

11. The Ministers agree to enhance coordination and cooperation among BRICS on international and regional issues, safeguard justice at the United Nations and other international fora. They support political and diplomatic solution of conflicts, such as Libya and the Korean Peninsula, and promote preventive diplomacy in a consensus-based manner. They condemn unilateral military intervention or economic sanctions in violation of international law and universally recognised norms of international relations.6


7. On 21 June 2017, the first round of China-US diplomatic and security dialogue was held in Washington, D.C. Both sides exchanged views on China-US relations and issues of common concern, reaching the following consensus:

[…]

The two sides both support efforts to maintain peace and stability in the South China Sea, support resolving disputes by peaceful means, based on friendly consultations and negotiations, in accordance with recognized principles of international law, including the 1982 UN Convention on the Law of the Sea (UNCLOS), and support the management of disputes through dialogue.

The two sides reaffirm their commitment to achieving the goal of complete, verifiable, and irreversible denuclearization and maintaining peace and stability on the Korean Peninsula. The United States and China reaffirmed the goals enshrined in the DPRK-related UNSC resolutions. The two sides are ready to continue their efforts to this end, including by fully and strictly implementing

relevant UNSC resolutions, and by promoting relevant dialogue and negotiation. The two sides decided to maintain communication and cooperation regarding the nuclear issue on the Peninsula. […]

The two sides decided to increase their support for UN peacekeeping, including rapid deployment of UN peacekeeping missions and ensuring the safety and security of peacekeepers, China and the U.S. committed to strengthening third-party cooperation regarding peacekeeping capacity-building in Africa and to work together with African partners to identify key peacekeeping capability gaps for capacity-building by the end of 2017.7

I.H. Ratification of the Treaty on Extradition with Argentina
8. On 27 June 2017, the Standing Committee of the Twelfth National People’s Congress decided to ratify the Treaty on Extradition between the People’s Republic of China and the Republic of Argentina, which was signed by a representative of China on 10 May 2013 in Buenos Aires.8

I.I. Ratification of the Treaty on Extradition between China and Ethiopia
9. On 27 June 2017, the Standing Committee of the Twelfth National People’s Congress decided to ratify the Treaty on Extradition between the People’s Republic of China and the Federal Democratic Republic of Ethiopia, which was signed by a representative of China on 4 May 2014 in Addis Ababa.9

I.J. Joint Communiqué of the Fourth Round of Political Consultations between Chinese and African Foreign Ministers

19. The two sides emphasize their commitments to strictly adhere to the purposes and principles of the UN Charter, respect each other’s sovereignty,

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independence and territorial integrity, respect and support each country’s choice of development according to its national conditions, and oppose interference in the internal affairs of other countries and the willful resort to the use or threat of force.

20. The two sides firmly uphold the UN’s core position and role in international affairs, and reaffirm the need for reform of the UN. The two sides reaffirm that the historical injustice endured by African countries should be undone and priority should be given to increasing the representation of African countries in the UN Security Council and other agencies.

[...]

22. The two sides appreciate the outcomes of the United Nations Framework Convention on Climate Change (UNFCCC) COP21 (Paris Conference) and COP22 (Marrakech Conference), and pledge to fully implement the UNFCCC and its Paris Agreement. [...]

23. The two sides agree that terrorism poses a serious threat to regional peace, economic development and social stability. China commends and supports African efforts in fighting against terrorism. The Chinese and African sides are committed to strengthening counter-terrorism communication and cooperation, deepening development cooperation, working to eliminate the root causes of terrorism, and jointly promoting world peace and stability. [...]

24. [...] The African side expresses its desire to strengthen cooperation with China in peace and security affairs. The Chinese side reaffirms its continued commitment to constructively participating in African peace and security affairs, supporting Africa’s efforts to promote its capability of maintaining peace and stability, and dispatching peacekeeping personnel to Africa under the UN framework.10

I.K. Ratification of the Treaty on Mutual Judicial Assistance in Criminal Matters between Armenia and China

11. On 4 November 2017, the Standing Committee of the Twelfth National People’s Congress decided to ratify the Treaty on Mutual Judicial Assistance in Criminal Matters between the Republic of Armenia and the People’s Republic of China, which was signed by a representative of China on 25 March 2015 in Beijing.11

I.L. Ratification of the Treaty on Mutual Judicial Assistance in Civil and Commercial Matters between China and Ethiopia

12. On 4 November 2017, the Standing Committee of the Twelfth National People’s Congress decided to ratify the Treaty on Mutual Judicial Assistance in Civil and Commercial Matters between the People’s Republic of China and the Federal Democratic Republic of Ethiopia, which was signed by a representative of China on 4 May 2014 in Addis Ababa.¹²

I.M. Joint Statement between the Government of the People’s Republic of China and the Government of the Republic of the Philippines


13. Both sides note that the situation in the South China Sea has become generally more stable as a result of joint cooperative efforts between China, the Philippines, and other ASEAN Member States. Both sides welcome the implementation of the consensus between President Xi Jinping and President Rodrigo Roa Duterte to establish a Bilateral Consultation Mechanism on the South China Sea as a way to manage and prevent incidents at sea, enhance maritime dialogue and cooperation, and pursue a stable growth of bilateral relations.

Both sides agree to strengthen maritime cooperation in areas such as marine environmental protection, disaster risk reduction, including possible cooperation in marine scientific research, subject to further consultations.

14. Both sides may explore means to cooperate with each other in other possible maritime activities including maritime oil and gas exploration and exploitation, in accordance with the respective national laws and regulations of the two countries and international law including the 1982 UNCLOS, and without prejudice to the respective positions of the two countries on sovereignty, sovereign rights, and jurisdiction. Both sides further agree to continue to actively advance consultations and negotiations on a Code of Conduct in the South China Sea and ensure the full and effective implementation of the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC) in its entirety.

15. Both sides affirm that contentious maritime issues are not the sum total of the China-Philippines bilateral relationship. Both sides also reaffirm the importance of maintaining and promoting regional peace and stability, freedom of

navigation in and over-flight above the South China Sea as well as freedom of commerce and other peaceful uses, addressing their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the Charter of the United Nations and the 1982 UNCLOS. Both sides agree to continue discussions on confidence-building measures to increase mutual trust and confidence and to exercise self-restraint in the conduct of activities in the South China Sea that would complicate or escalate disputes and affect peace and stability.13

I.N. Budapest Guidelines for Cooperation between China and Central and Eastern European Countries
14. On 27 November 2017, the Sixth Summit of China and Central and Eastern European Countries was held in Budapest, Hungary. The participating States passed the Budapest Guidelines for Cooperation between China and Central and Eastern European Countries, which reads, in part:

The Participants underline that against the backdrop of instabilities and uncertainties of the world, the Participants should firmly safeguard the purposes and principles of the UN Charter, stand for multilateralism, and strive for openness in global economy with WTO rules at its core. We reiterate the importance of expanding economic growth, trade and investment based on fairness, market rules and universally recognized international norms. China and CEECs stand ready to work actively on that.

[...]
The Participants reiterate that they will cooperate on the basis of willingness, fairness, transparency, inclusiveness, reciprocity and mutual benefit within the applicable norms of international law, and in accordance with the laws, regulations and respective competences of each other and EU standards and policies for EU member states and candidate countries.14

II. Legislation
II.A. Law of the People’s Republic of China on Red Cross Society
15. On 24 February 2017, the Standing Committee of the Twelfth National People’s Congress adopted the Law of the People’s Republic of China on Red Cross Society

The Law has seven chapters and 30 articles. It came into force on 8 May 2017. The following articles are related to international law:

Article 2. The Red Cross Society of China (“RCSC”) is a unified Red Cross organization of the People’s Republic of China and a social relief and aid society that engages in humanitarian work. [...]

Article 4. The RCSC shall abide by the Constitution and laws of China, adhere to the fundamental principles established by the International Red Cross and the Red Crescent Movement, and conduct its work independently in accordance with the Geneva Conventions and the Additional Protocols thereto as approved or acceded to by China and the Regulations of the RCSC.

The National Congress of Members of the RCSC shall develop or amend the Regulations of the RCSC in accordance with the law, and the Regulations shall not contravene the Constitution and laws. [...]

Article 6. The RCSC shall develop its friendly cooperation relationship with the Red Cross Societies and the Red Crescent Societies of all countries under the principles of independence, equality and mutual respect. [...]

Article 11. The Red Cross Society shall perform the following functions and duties:

1. to conduct relevant work of assistance and disaster relief; in case of such emergencies as wars, armed conflicts, natural calamities, accident disasters and public health incidents, to offer emergent relief and humanitarian assistance to the sick, the injured and other victims;

2. to conduct training in rescue skills, to disseminate knowledge about rescue skills, disaster prevention and risk avoidance, and health and hygiene, organize volunteers to participate in on-the-spot rescue operations;

3. to participate in and promote the work of gratuitous blood donation and human remains and organ donation, participate and conduct relevant work on donation of hematopoietic stem cells;

4. to organize service activities among Red Cross volunteers, youth and teenagers;

5. to take part in international humanitarian relief work;

6. to propagate the Fundamental Principles of the International Red Cross and the Red Crescent Movement and the Geneva Conventions and their Additional Protocols;

7. to fulfil the tasks entrusted by the people’s government in accordance with the Fundamental Principles of the International Red Cross and the Red Crescent Movement;

8. to conduct its work in accordance with the relevant provisions of the Geneva Conventions and their Additional Protocols; and
(9) to assist the people’s government to conduct other humanitarian services which are related to its functions and duties.

Article 12. In conducting relief operations during such emergencies as wars, armed conflicts, natural calamities, accident disasters and public health incidents, personnel, goods and materials, and transportation vehicles marked with the signs of the Red Cross shall enjoy the priority of passage.

Article 13. No organization or individual shall obstruct the staff of the Red Cross Society to perform their functions and duties of relief, assistance and rescue in accordance with the law.\(^\text{15}\)

II.B. Law of the People’s Republic of China on Nuclear Safety

16. On 1 September 2017, the Standing Committee of the Twelfth National People’s Congress adopted the Law of the People’s Republic of China on Nuclear Safety \(\left[\langle\text{中华人民共和国核安全法}\rangle\right]\) at its 29th Session. The Law has eight chapters and 94 articles. It came into force on 1 January 2018. The following articles are related to international law:

[...]

Article 2. This Law applies to any activity, within the territory of the People’s Republic of China and other sea areas under its jurisdiction, conducted to prevent nuclear accidents caused by technical reasons, human reasons or natural disasters and to minimize the radioactive consequences in the case of nuclear accidents, by taking adequate preventive, protective, mitigating, regulatory and other safety measures against nuclear facilities, nuclear material and other relevant radioactive waste.

(1) a nuclear electrical power plant, a nuclear thermal power plant, a nuclear steam and heat supply plant, and any other nuclear power plant or installation;

(2) a research reactor, an experimental reactor, a critical assembly or any reactor other than a nuclear power plant;

(3) a facility in which nuclear fuel is produced, processed, stored or reprocessed or any other nuclear fuel cycle facility; or

(4) a processing, storage, or disposal facility for radioactive waste.

“Nuclear material” means:

(1) uranium-235 or any product thereof;

(2) uranium-233 or any product thereof;

(3) plutonium-239 or any product thereof; or

\(^{15}\) Official Gazette of the National People’s Congress Standing Committee (2017), No. 326, 15 April 2017 (wwwnpcgovcnenwzlgongbao/site16120170623fc4d4f775c81ab6b13c01pdf), 361-364. The English translation is provided by the author.
any other nuclear material required to be controlled according to laws and administrative regulations.

“Radioactive waste” means waste that is generated from the operation or decommissioning of a nuclear facility, that contains, or is contaminated with, radionuclide at concentrations or specific activities greater than clearance levels as established by the state, and for which no further use is foreseen. […] 

Article 4. Nuclear cause must be conducted in conformity with the policy of ensuring safety.

Nuclear safety work must conform to the principle of safety first, focus on prevention, well-defined responsibilities, strict management, defence in depth, independent regulation, and comprehensive guarantees. […] 

Article 13. The state shall organize and conduct international exchange and cooperation relating to nuclear safety, improve the international nuclear safety cooperation mechanism, prevent and tackle nuclear terrorist threats, and perform the obligations specified by the international conventions China has entered into or acceded to.16

II.C. National Anthem Law of the People’s Republic of China

17. On 1 September 2017, the Standing Committee of the Twelfth National People’s Congress adopted the National Anthem Law of the People’s Republic of China [《中华人民共和国国歌法》]. The National Anthem Law has 16 articles and one Appendix. It came into force on 1 October 2017. The following articles are especially related to international law:

Article 2. The national anthem of the People’s Republic of China is the “March of the Volunteers.”

Article 3. The national anthem of the People’s Republic of China is the symbol and sign of the People’s Republic of China.

All citizens and organizations shall respect the national anthem and uphold the dignity of the national anthem.

Article 4. The national anthem shall be performed and/or sung on the following occasions:

(1) Opening and closing ceremonies of the National People’s Congress and all levels of local people’s congresses; opening and closing ceremonies of the National Committee and local committees of the Chinese People’s Political Consultative Conference;

16 Official Gazette of the National People’s Congress Standing Committee (2017), No. 329, 15 September 2017 (www.npc.gov.cn/wxzl/gongbao/site161/20171026/fc4dd4f775c81b5b6e7a01.pdf), 631-642. The unofficial English translation is provided by pkulaw.cn at (en.pkulaw.cn/display.aspx?cgid=301232&lib=law).
(2) Congresses at all levels of all political parties and people’s organizations;
(3) Ceremonies of pledging allegiance to the Constitution;
(4) National flag-raising ceremonies;
(5) Major celebrations, award ceremonies, commemorative ceremonies and the like, which are organized by state organs of all levels;
(6) National public memorial ceremonies;
(7) Major diplomatic activities;
(8) Major sporting events;
(9) Other occasions where it is necessary to play and sing the national anthem. […]

Article 8. The occasions and etiquette for playing and singing the national anthem in diplomatic activities are to be prescribed by the Ministry of Foreign Affairs.

The occasions and etiquette for military performance and singing of the national anthem are to be prescribed by the Central Military Commission.

Article 9. When playing or singing the national anthem on occasions provided for by Article 4 of this Law, the standard playing score or the official recorded version of the national anthem shall be used.

The Ministry of Foreign Affairs and diplomatic agencies stationed abroad shall provide the foreign affairs departments of relevant countries with the standard playing score and the official recorded version of the national anthem, for use in diplomatic activities.

The administrative department for sports under the State Council shall provide relevant international sporting organizations with the standard playing score and the official recorded version of the national anthem, for use in international sporting events.

A competent department designated by the State Council shall organize to review and determine the standard playing score of the national anthem and to record the official recorded version of the national anthem. The standard playing score and official recorded version of the national anthem shall be published on the official websites of the National People’s Congress and the State Council.17

II.D. Marine Environment Protection Law (2017 Revision)

18. On 4 November 2017, the Standing Committee of the Twelfth National People’s Congress decided to revise the Marine Environment Protection Law of the People’s Republic of China [《中华人民共和国海洋环境保护法》]. The 2017

17 Official Gazette of the National People’s Congress Standing Committee (2017), No. 329, 15 September 2017 (www.npc.gov.cn/wxzl/gongbao/site161/20171026/fc4dd4f775c81b5b6c7a01.pdf), 669-672. The English translation is provided by the author.
revision dealt with Articles 30 and 77 of the 2016 version. The Law has ten chapters and 97 articles. The following articles are especially related to international law:

[...]

Article 2. This Law shall apply to the internal waters, territorial seas, contiguous zones, exclusive economic zones, and continental shelves of the People’s Republic of China and all other sea areas under the jurisdiction of the People’s Republic of China.

All vessels, platforms, airborne vehicles and submersibles, as well as all enterprises, institutions and individuals engaged in navigation, exploration, exploitation, production, tourism, scientific research or other activities in the sea areas under the jurisdiction of the People’s Republic of China shall comply with this Law.

This Law shall also apply to activities beyond the sea areas under the jurisdiction of the People’s Republic of China that cause pollution damage to sea areas within the jurisdiction of the People’s Republic of China. [...]

Article 4. All units and individuals shall have the obligation to protect the marine environment and shall have the right to monitor and report on actions of any units or individuals causing pollution damage to the marine environment, to monitor and report on any unlawful action or misconduct of persons responsible for marine environment supervision and administration. [...]

[...]

Article 96. If an international treaty regarding marine environmental protection concluded or acceded to by the People’s Republic of China contains provisions differing from those contained in this Law, the provisions of that international treaty shall apply, except for the provisions that the People’s Republic of China has declared reservations.18

III. Government white papers and policy papers

III.A. China’s Policies on Asia-Pacific Security Cooperation


Preface

I. China’s Policies and Positions on Asia-Pacific Security Cooperation

II. China’s Security Vision for the Asia-Pacific Region

III. China’s Relations with Other Major Asia-Pacific Countries

18 Official Gazette of the National People’s Congress Standing Committee (2017), No. 330, 20 November 2017 (www.npc.gov.cn/wxzl/gongbao/site161/20180329/fc4dd4f775c81c26988101.pdf), 852-862. The English translation is provided by the author.
IV. China’s Positions and Views on Regional Hotspot Issues
V. China’s Participation in Major Multilateral Mechanisms in the Asia-Pacific Region
VI. China’s Participation in Regional Non-Traditional Security Cooperation

Conclusion

20. The Conclusion of the White Paper reads,

The Chinese people are working hard to realize the Chinese Dream of the great renewal of the Chinese nation. In this process, China will bring greater opportunities and benefits for development and cooperation in the Asia-Pacific region. China’s development adds to the momentum for world peace. China will firmly follow the path of peaceful development and the policy of “building friendship and partnership with neighboring countries” to create an amicable, secure and prosperous neighborhood. China remains committed to the principles of amity, sincerity, mutual benefit and inclusiveness in conducting neighborhood diplomacy and the goal of maintaining and promoting stability and prosperity in the Asia-Pacific region. China stands ready to work with all countries in the region to pursue mutually beneficial cooperation and steadily advance security dialogues and cooperation in the Asia-Pacific region, and the building of a new model of international relations so as to create a brighter future for this region.19

III.B. International Strategy of Cooperation on Cyberspace

21. On 1 March 2017, the Ministry of Foreign Affairs and the Cyberspace Administration of China issued a document entitled the International Strategy of Cooperation on Cyberspace. The document was the first international strategy issued by China in the field of cyberspace and served as a guiding policy paper on China’s current and future participation in the global cyberspace governance and related international cooperation. The policy paper contains the following parts:

Preface
Chapter I. Opportunities and Challenges
Chapter II. Basic Principles
  1. The Principle of Peace
  2. The Principle of Sovereignty
  3. The Principle of Shared Governance
  4. The Principle of Shared Benefits
Chapter III. Strategic Goals
  1. Safeguarding Sovereignty and Security

19 (english.gov.cn/archive/white_paper/2017/01/11/content_281475539078636.htm).
2. Developing a System of International Rules
3. Promoting Fair Internet Governance
4. Protecting Legitimate Rights and Interests of Citizens
5. Promoting Cooperation on Digital Economy
6. Building Platform for Cyber Culture Exchange

Chapter IV. Plan of Action
1. Peace and Stability in Cyberspace
2. Rule-based Order in Cyberspace
3. Partnership in Cyberspace
4. Reform of Global Internet Governance System
5. International Cooperation on Cyber Terrorism and Cyber Crimes
6. Protection of Citizens’ Rights and Interests Including Privacy
7. Digital Economy and Sharing of Digital Dividends
8. Global Information Infrastructure Development and Protection
9. Exchange of Cyber Cultures

Conclusion.

III.C. Development of China’s Public Health as an Essential Element of Human Rights

22. On 29 September 2017, the State Council Information Office issued a White Paper titled Development of China’s Public Health as an Essential Element of Human Rights. The White Paper contains the following parts:

Preface
I. Ensuring People’s Right to Health Based on China’s Conditions
II. Continuous Improvement of Health Environment and Conditions
III. Public Health Service Capability Improving Steadily
IV. Great Improvement in the Quality of Medical and Health Services
V. Improvement of the National Medical Security System
VI. Significant Improvement in the Health of Special Groups
VII. Active Participation in Global Health Governance and International Medical Assistance

Conclusion
Major Indicators for the Healthy China Program

23. The Conclusion of the White Paper reads, in part:

The CPC and the Chinese government earnestly respect and protect people’s right to health, and consider safeguarding people’s health as a basic task of governance. […]

20 (www.xinhuanet.com/english/china/2017-03/01/c_136094371.htm).
In order to better safeguard people’s right to health, we are speeding up the building of a healthy China. A series of plans and outlines have been made and implemented, including the “Healthy China 2030” Planning Outline, the National Fitness Program (2016-2020), the 13th Five-Year Plan for Medical and Health Service Development, and the Plan for Deepening Reform of the Medical and Healthcare System During the 13th Five-Year Plan Period (2016-2020). The Chinese government has put forward a “three-step” goal: a sound basic medical and healthcare system with Chinese characteristics will be established covering both urban and rural residents, with the main health indicators ranking in the forefront of the high- and middle-income countries by 2020; the health-promotion system will be improved, with the main health indicators in the ranks of the high-income countries by 2030; and a healthy China conforming to the requirements of a modern socialist country will be built by 2050. Governments at all levels will continue their work toward comprehensively safeguarding people’s health for the full life cycle, and promoting the overall development of medical and health services, with a high sense of responsibility and urgency.

Health is an eternal pursuit of mankind, and health promotion is the common responsibility of the world community. The United Nations 2030 Agenda for Sustainable Development has set healthy lives as a major sustainable development goal, and the development of the global health system is at a crucial stage. China will, as always, energetically participate in health-related international activities, take an active part in global health governance, and implement sustainable development goals in the public health sector. In its efforts to build the Belt and Road, China will enhance medical and health cooperation with countries along the route, and emphasize learning from and drawing on the experiences of other countries. In the great process of “jointly building a community with a shared future for mankind,” China is keen to join hands with people around the world in making unremitting efforts to build a better and healthier world.21

III.D. Human Rights in Xinjiang—Development and Progress

24. On 1 June 2017, the State Council Information Office of the People’s Republic of China published a White Paper titled Human Rights in Xinjiang—Development and Progress. The White Paper contains the following parts:

   Foreword
   I. Political Rights
   II. Civil Rights
   III. Economic Rights
   IV. Social Rights

21 (english.gov.cn/archive/white_paper/2017/09/29/content_281475894089810.htm).
IV. Statements

IV.A. Jointly shoulder responsibility of our times, promote global growth

25. On 17 January 2017, Chinese President XI Jinping made a keynote speech at the opening session of the World Economic Forum Annual Meeting 2017. He said,

[...] Countries, big or small, strong or weak, rich or poor, are all equal members of the international community. As such, they are entitled to participate in decision-making, enjoy rights and fulfill obligations on an equal basis. Emerging markets and developing countries deserve greater representation and voice. The 2010 IMF quota reform has entered into force, and its momentum should be sustained. We should adhere to multilateralism to uphold the authority and efficacy of multilateral institutions. We should honor promises and abide by rules. One should not select or bend rules as he sees fit. The Paris Agreement is a hard-won achievement which is in keeping with the underlying trend of global development. All signatories should stick to it instead of walking away from it as this is a responsibility we must assume for future generations. [...] We should foster a culture that values diligence, frugality and enterprise and respects the fruits of hard work of all. Priority should be given to addressing poverty, unemployment, the widening income gap and the concerns of the disadvantaged to promote social equity and justice. It is important to protect the environment while pursuing economic and social progress so as to achieve harmony between man and nature and between man and society. The 2030 Agenda for Sustainable Development should be implemented to realize balanced development across the world. [...] Between 1950 and 2016, despite its modest level of development and living standard, China provided more than 400 billion yuan of foreign assistance, undertook over 5,000 foreign assistance projects, including nearly 3,000 complete projects, and held over 11,000 training workshops in China for over 260,000 personnel from other developing countries. [...]23

22 (english.gov.cn/archive/white_paper/2017/06/01/content_281475673512156.htm).
IV.B. Work together to build partnerships and pursue peace and development

26. On 20 March 2017, Chinese Foreign Minister WANG Yi made a speech at the Luncheon of the China Development Forum. With regard to China’s pursuit of a new type of international partnership, he said,

As the world’s second biggest economy and a permanent member of the UN Security Council, China is willing to fulfill its due international responsibilities. China has made efforts and is becoming an anchor of world stability, an engine of global growth, a champion of peace and development and a new impetus for global governance. Yet, China never has the intention to lead the world. A globalized world, where countries are more closely inter-connected than ever before, needs not a single-handed hero but partners of cooperation who stick together in times of difficulty. This is why China has put forward the idea of building partnerships as the new direction for state-to-state relations, a proposal welcomed by most countries.

In recent years, under the leadership of the CPC Central Committee with Comrade Xi Jinping as its core, China has made active efforts to expand and deepen its partnerships with other countries. Our “circle of friends” has been growing ever bigger. By the end of last year, China has set up partnerships with 97 countries and international organizations, which include big countries, neighboring countries as well as developing countries. Partnership has become an important feature and a highlight of China’s foreign policy.

IV.C. Work together to build the Silk Road Economic Belt and the 21st Century Maritime Silk Road

27. On 14 May 2017, Chinese President Xi Jinping made a keynote speech at the Opening Ceremony of the Belt and Road Forum for International Cooperation in Beijing. He said,

China will enhance friendship and cooperation with all countries involved in the Belt and Road Initiative on the basis of the Five Principles of Peaceful Coexistence. We are ready to share practices of development with other countries, but we have no intention to interfere in other countries’ internal affairs, export our own social system and model of development, or impose our own will on others. In pursuing the Belt and Road Initiative, we will not resort to outdated

geopolitical maneuvering. What we hope to achieve is a new model of win-win cooperation. We have no intention to form a small group detrimental to stability, what we hope to create is a big family of harmonious co-existence.\textsuperscript{25}

IV.D. Toward peace and development for all

28. On 21 September 2017, Chinese Foreign Minister WANG Yi made a speech at the General Debate of the 72\textsuperscript{nd} Session of the United Nations General Assembly in New York. With regard to China’s contribution to the international community, he said,

[...] Looking ahead, China’s continuous progress will bring to the world greater benefits of peace, development and governance.

- China is an anchor of world peace. Sustained stability of a country with over 1.3 billion people is an enormous contribution to world peace. Aggression is never in the genes of the Chinese, and acts of colonializing or plundering others are nowhere to be found in China’s track record. President Xi has solemnly pledged that no matter how advanced it gets in development, China will never seek hegemony, expansion or sphere of influence. China will always vote for peace at the Security Council.

- China is an engine for development and prosperity. The Belt and Road Forum for International Cooperation China successfully hosted last May has produced more than 270 cooperation deliverables. China wants to build the Belt and Road into a road of peace, prosperity, openness and innovation that connects different civilizations. This project of the century will offer a new paradigm for efforts to promote world peace and development. It will also inject fresh impetus to the pursuit of the Sustainable Development Goals by 2030. Starting from next year, China will host the China International Import Expo. We will make greater strides in opening-up and provide new driving forces for the global economy.

- China is a champion of multilateralism. It firmly upholds the purposes and principles of the UN Charter, sovereignty, independence, and territorial integrity of countries, and the centrality of the UN in international affairs. No matter how the international landscape may change, China will stay firmly committed to multilateralism. It will shoulder its responsibilities assigned by the UN and fulfill its due obligations to the world.\textsuperscript{26}

IV.E. Dissemination of international law to strengthen the rule of law

29. On 5 October 2017, a Chinese representative made a statement at the 72\textsuperscript{nd} Session of the UN General Assembly under Agenda Item 84: the rule of law at the

\textsuperscript{25} (www.fmprc.gov.cn/mfa_eng/wjdt_665385/zyjh_665391/t1465819.shtml).

\textsuperscript{26} (www.fmprc.gov.cn/mfa_eng/wjdt_665385/zyjh_665391/t1496244.shtml).
national and international levels. With regard to ways and means to further disseminate international law to strengthen the rule of law, he said,

International organizations, the UN and its specialized agencies included, are major vehicles for the dissemination of international law. China hails the positive contribution of the UN Programme of Assistance in Teaching, Study, Dissemination and Wider Appreciation of International Law to the dissemination and exchange in the field of international law. We appreciate the efforts of the UN Office of Legal Affairs and other UN entities to facilitate the dissemination of international law. We welcome the successive launch of the UN Regional Courses in International Law and the UN International Law Fellowship Programme. The Chinese Government has been supporting the Programme of Assistance with annual donations to support the Programme’s regional courses in Asia and Africa and its audiovisual library project, in order to bolster the capacity of developing countries in international law. China calls on the UN to make full and effective use of the Programme to facilitate the sharing of resources and information on international law.

The Chinese Government has consistently promoted exchanges and dissemination in the field of international law and contributed Chinese expertise and Chinese wisdom to the capacity building efforts of developing countries in international law. In 2015, the Chinese Government set up the China-AALCO Exchange and Research Program on International Law (CAERP) with a view to enhancing exchange and cooperation in international law among Asian-African countries in the renewed spirit of the Bandung Conference. Under this program, my government has successfully hosted three training courses and five workshops and trained more than 100 legal personnel from developing countries. In September this year, the Third Training Course on International Law was held, first in Beijing and then in Hong Kong. It was attended by 50 legal officials from 35 AALCO member states, the Lao PDR as non-member, the AALCO Secretariat, and the AU secretariat. As a result of my government’s vigorous effort, the training program has seen a continuous increase in the number of trainees as well as a richer and more sophisticated curriculum. It is now one of the major platforms dedicated to the promotion and dissemination of international law in Asia and Africa.

China believes that enhanced awareness raising, education and research at the national level constitute an important means to disseminate international law. My government has taken a number of steps to effectively advance the research and dissemination of international law in China. These include online publication of international law-related information, public diplomacy, and partnership between government institutions and academia, so that the public
can access and discuss the frontier issues and latest developments in international law.

Teaching and promoting a wider knowledge of international law at institutions of higher learning is high on my government’s agenda. As of now, 628 universities in China offer law major, which is selected by more than 312,000 undergraduates. International Law is a required course for law majors. Each year, various universities in China have over 130 PhD candidates and over 1,000 LLM candidates majoring in international law. Many law schools and institutes of social sciences have their own international law institutions for training international law scholars and practitioners. Over the years, a range of national academic bodies have been established, such as the Chinese Society of International Law, the China Society of Private International Law, the Chinese Society of International Economic Law, the Chinese Society of the Law of the Sea and the China Institute of Space Law. They play their part in advancing the research, dissemination, and exchanges in international law through various activities such as hosting annual academic meetings and publishing research-oriented periodicals.27

IV.F. Sources of international law

IV.F.i. Provisional application of treaties

30. On 23 October 2017, a Chinese representative made a statement on the topic of provisional application of treaties at the 72nd Session of the UN General Assembly on Agenda Item 81: Report of the International Law Commission on the work of its 69th session. He said,

With respect to “Provisional application of treaties”, the Commission adopted at this year’s session the draft guidelines 1 to 11 and the commentaries thereto. The Chinese delegation commends the Commission for its progress on this topic. We have noted that draft guideline 6 establishes a “default rule”, namely the provisional application of a treaty produces the same legal effect as if the treaty were in force, unless the parties indicate to the contrary. As this formulation represents a major development of the rules governing the provisional application of treaties as defined by the Vienna Convention on the Law of Treaties, the Commission should proceed with utmost caution. We believe that to determine whether the provisional application of a treaty equals the coming into force of the treaty, the key is to ascertain the real intent of the parties and comprehensively examine relevant practices of States, including any possible exceptions.28

28 (www.china-un.org/eng/chinaandun/legalaffairs/sixthcommittee1/t1506786.htm).
IV.F.ii. International jus cogens

31. On 27 October 2017, a Chinese representative made a statement on the topic of jus cogens at the 72nd Session of the UN General Assembly on Agenda Item 81: Report of the International Law Commission on the work of its 69th session. He said,

With respect to “Peremptory norms of general international law (jus cogens)”, the Chinese delegation thanks the Commission and Mr. Tladi, the Special Rapporteur, for their hard work. We are of the view that this topic should be based on article 53 of the Vienna Convention on the Law of Treaties as well as State practice, and avoid relying excessively on theoretical deduction. With regard to certain specific issues covered by the topic, the Chinese delegation wishes to make the following comments:

First, on the basic elements of jus cogens. The Chinese delegation pointed out last year that the three basic elements proposed by the Special Rapporteur in his first report, namely that norms of jus cogens are universally applicable, are hierarchically superior to other norms of international law and protect the fundamental values of the international community, are at considerable variance with the elements set forth in article 53 of the Vienna Convention on the Law of Treaties. The proposed elements not only go beyond the framework of the afore-mentioned article, but also lack the backing of State practice. We have noted that in response to our concern, the Special Rapporteur explains in paragraph 18 of his latest report that his proposal should be seen as “descriptive and characteristic elements”, as opposed to the “constituent elements (or criteria) of norms of jus cogens” contained in article 53 of the Vienna Convention, and argues for a distinction between the two sets of elements. However, this explanation is still less than convincing to my delegation, since the purported difference is an ambiguous one, distinguishable only in theoretical abstraction and not supported by positive law. More importantly, the three proposed elements are subject to controversies themselves. For instance, the specific meaning of the so-called “fundamental values” can be very difficult to define in an international community with diverse civilizations and multiple value systems. Another example is the conclusion about the hierarchical superiority of jus cogens, which also lacks the support of sufficient and coherent State and international judicial practice. With regard to such issues as whether jus cogens norms have priority over procedural rules such as immunity of State officials from foreign criminal jurisdiction or over obligations of Members States under the Charter of the United Nations, there is no consensus yet in the international community.

Second, on the bases of jus cogens. Draft conclusion 5 proposes that general principles of law can serve as the basis for jus cogens norms. We take the view that given the lack of consensus in the international community as to which norms fall within the category of general principles of law, and a paucity of State
practice relating to the elevation of a general principle of law to a jus cogens norm, further studies seem warranted in order to determine whether general principles of law can indeed form the basis of jus cogens. We would like to seek clarification from the Special Rapporteur in this regard.

Third, on how to interpret the phrase “the international community of States as a whole” contained in the criteria of identification of jus cogens. We believe that whether it is interpreted as “a large majority of States” or “a very large majority of States”, such a definition would be very difficult to implement in practice. Since the same vague quantitative criterion can also be employed to identify customary international law, it would be difficult to ascertain the difference, if any, in the manner in which the criterion is used to identify jus cogens norms. Considering that an accurate definition of “the international community of States as a whole” is crucial for the determination as to whether a norm of international law constitutes a norm of jus cogens, we believe that more in-depth studies are required on this issue.29

IV.F.iii. Repertory of Practice of United Nations Organs and Repertoire of the Practice of the Security Council


With regard to the preparation of Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council, China commends the Secretariat for its hard work and the progress achieved. China is actively supportive of this effort and has been contributing to the Trust Fund on an ongoing basis. We have also been funding the Secretariat’s junior professional officer program in recent years. With a large pool of qualified Chinese universities and academic resources, China would like the Secretariat to broaden its cooperation in this process with academic institutions in countries like China, and hopes that the Repertory and Repertoire be published in all the official languages of the UN at the same time.30

IV.G. Succession of States in respect of State responsibility

33. On 27 October 2017, a Chinese representative made a statement on the topic of succession of States in respect of State responsibility at the 72nd Session of the UN

30 (www.china-un.org/eng/chinaandun/t1441533.htm).
General Assembly on Agenda Item 81: Report of the International Law Commission on the work of its 69th session. He said,

With respect to “Succession of States in respect of State responsibility”, the Chinese delegation appreciates the work carried out by the Commission, and thanks the Special Rapporteur for his first report. We are of the view that given the limited international practice relating to the succession of State responsibility, as well as the complex political and historical contexts in which such limited practice occurred, it is foreseeable that the codification of rules of international law in this field will be very difficult. In addition, it is also worth further discussion as to whether there is real urgency for the Commission to embark on the codification of the topic at the current stage.

With regard to the issue of “scope” addressed by draft article 1, we endorse limiting the scope of this topic to State responsibility and succession of States, excluding responsibility of international organizations and succession of governments. At the same time, we propose that rules of international law on “State liability” should also be kept out of the scope of the topic, and that the topic should focus entirely on secondary rules of “State responsibility”.31

IV.H. China’s territorial integrity

IV.H.i. Taiwan region

34. On 5 March 2017, Chinese Premier LI Keqiang made a statement on China’s policy on the Taiwan region in the Report on the Work of the Government delivered at the Fifth Session of the 12th National People’s Congress. He said,

We will thoroughly implement the policies on our work related to Taiwan, uphold the one-China principle, and safeguard the 1992 Consensus as our common political foundation. We will protect China’s sovereignty and territorial integrity, maintain the peaceful growth of cross-Strait relations, and safeguard peace and stability in the Taiwan Straits. We will resolutely oppose and deter separatist activities for Taiwan independence. We will never allow any person to separate Taiwan from the motherland in any form or name.32

35. On 27 March 2017, an FM spokesperson made remarks on the visit by a Japanese Senior Vice Minister of Internal Affairs and Communications to Taiwan on 25 March 2017. She said,

The Taiwan question is a major matter of principle concerning the political foundation of China-Japan relations. China’s position on the Taiwan question

32 (news.xinhuanet.com/english/china/2017-03/16/c_136134017_6.htm).
is consistent and clear. An incumbent senior vice minister visiting Taiwan obviously breaches the commitment made by Japan to interacting with Taiwan only at non-governmental and local levels and seriously counters the spirit of the four political documents between China and Japan. China is firmly opposed to the visit and has lodged serious representations with Japan.33

IV.H.ii. China’s sovereignty over Diaoyu Dao
36. On 27 March 2017, an FM spokesperson made remarks on China’s sovereignty over Diaoyu Dao. When answering a question from the press that, according to media reports, the senior high school textbook recently approved by Japan’s Education Ministry describes Diaoyu Dao as Japan’s inherent territory, she said,

Diaoyu Dao and its affiliated islands are China’s inherent territory. China’s resolve to uphold its territorial sovereignty is unwavering. Whatever Japan says or does, the fact that Diaoyu Dao belongs to China cannot be changed. We urge Japan to respect history and reality, instill the right knowledge into the young generations, and stop stirring up troubles on the relevant issue.34

IV.H.iii. The facts and China’s position concerning the Indian border troops’ crossing of the China-India boundary in the Sikkim sector into the Chinese territory
37. On 2 August 2017, the Foreign Ministry of China issued a document on the facts and China’s position concerning the Indian border troops’ crossing of China-India boundary in the Sikkim sector into the Chinese territory. It states, in part:

1. The Dong Lang area (Doklam) is located in Yadong county of the Tibet Autonomous Region of China. It borders India’s Sikkim state on the west and the Kingdom of Bhutan on the south. In 1890, China and the UK signed the Convention Between Great Britain and China Relating to Sikkim and Tibet which delimited the boundary between the Tibet region of China and Sikkim. According to the Convention, the Dong Lang area, which is located on the Chinese side of the boundary, is indisputably Chinese territory. […]

2. On 16 June 2017, the Chinese side was building a road in the Dong Lang area. On 18 June, over 270 Indian border troops, carrying weapons and driving two bulldozers, crossed the boundary in the Sikkim Sector at the Duo Ka La (Doka La) pass and advanced more than 100 meters into the Chinese territory to obstruct the road building of the Chinese side, causing tension in the area. In addition to the two bulldozers, the trespassing Indian border troops, reaching as many as over 400 people at one point, have put up three tents and advanced

over 180 meters into the Chinese territory. As of the end of July, there were still over 40 Indian border troops and one bulldozer illegally staying in the Chinese territory. […] 

14. Since the incident occurred, China has shown utmost goodwill and great restraint and sought to communicate with India through diplomatic channels to resolve the incident. But no country should ever underestimate the resolve of the Chinese government and people to defend China’s territorial sovereignty. China will take all necessary measures to safeguard its legitimate and lawful rights and interests. The incident took place on the Chinese side of the delimited boundary. India should immediately and unconditionally withdraw its trespassing border troops back to the Indian side of the boundary. This is a prerequisite and basis for resolving the incident.

15. […] The Chinese side urges the Indian government to keep in mind the larger interest of bilateral relations and the well-being of the two peoples, abide by the 1890 Convention and the delimited China-India boundary established therein, respect China’s territorial sovereignty, observe the Five Principles of Peaceful Coexistence and other basic principles of international law and basic norms governing international relations, immediately withdraw its trespassing border troops back to the Indian side of the boundary and conduct a thorough investigation into the illegal trespass so as to swiftly and appropriately resolve the incident and restore peace and tranquility to the border area between the two countries. […]33

IV.I. Law of the sea

IV.I.i. Oceans and the law of the sea

38. On 5 December 2017, a Chinese representative made a statement at the Plenary of the 72nd UNGA under the Agenda Item 77: Oceans and the Law of the Sea. He said,

While new progress has been achieved in the fields of oceans and the law of the sea, there have also emerged new problems and challenges. I would like to share with you China’s positions and proposals in this connection.

First, build a community of shared future for mankind and achieve sustainable marine development.

As the common home of mankind, oceans represent a valuable space for sustainable development. In June this year, the UN Ocean Conference adopted the declaration, “Our Ocean, Our Future: Call for Action”, which reiterated support for the implementation of the solemn commitment embodied by SDG 14 of the 2030 Agenda for Sustainable Development. In order to tackle the problems and challenges related to oceans and seas, we must foster a strong
sense of a community with a shared future for mankind and work together closely. The Belt and Road Initiative put forward by China, particularly the idea of building the 21st Century Maritime Silk Road, will strongly boost international cooperation in ocean affairs. Under the principle of wide consultation, joint contribution and benefit sharing, China is ready to strive for the establishment of a community of shared future in ocean affairs, strike a balance between protection and sustainable use of the oceans, and promote the implementation of the 2030 Agenda to achieve sustainable marine development.

Second, promote maritime rule of law and maintain a fair and reasonable maritime order.

The UNCLOS and general international law have provided a legal framework for maritime activities of states. The rights of states within this framework should be fully respected. China supports the role of the ITLOS in peaceful settlement of maritime disputes. As the dispute settlement mechanism provided for in the UNCLOS is a well-designed whole that reflects the concerns of all parties in a balanced manner, the interpretation and application of the mechanism must in be in good-faith and accurate, its integrity must be maintained and its misuse avoided. China supports the CLCS in carrying out its work in accordance with the Convention and the Commission’s current Rules of Procedure, adhering to the principle of not considering and qualifying submissions by any of the States concerned in the dispute, thus to safeguarding the legitimate rights and interests of coastal states as well as the overall interest of the international community, and maintaining a fair and reasonable international maritime order. China supports the ISA in better discharging its duties under the Convention.

Third, strengthen communication and coordination to steadily advance the international legislative process in the field of the law of the sea.

The negotiations on an international agreement on BBNJ are of great importance to the global maritime governance. With regard to the proposed elements of the draft agreement put forward by the Preparatory Committee, China has noticed that they neither cover all items nor represent consensus among the parties. As such, they have no effect on future positions of negotiating parties. China emphasizes in this connection that the future agreement must not undermine the institutional framework of the UNCLOS, and that relevant arrangements must be based on solid legal and scientific basis and accommodate the interests and concerns of all parties. The Regulations on Exploitation of Mineral Resources in the Area will be important in regulating the exploitation of international seabed mineral resources and the ISA submitted the latest draft in August this year. China stresses that the Regulations must be in line with the provisions and spirit of the UNCLOS and the 1994 Implementing Agreement, aligned with the regulations on exploration of mineral resources in the Area, and
commensurate with the current level of human activities in and knowledge of the Area. Relevant work should be carried out gradually based on full consultations among all parties.\textsuperscript{36}

IV.I.ii. Meeting of States Parties to the UNCLOS

39. On 15 June 2017, a Chinese representative made a statement at the 27\textsuperscript{th} Meeting of States Parties to the United Nations Convention on the Law of the Sea under Agenda Item: Report of the Secretary General. He said,

First, we should promote the sustainable development of the oceans and seas by fostering the sense of a community of shared future for mankind. The ocean is our shared home. […] In May this year, the “Belt and Road Forum for International Cooperation” took place in Beijing. It lent new impetus to the 21st Century Maritime Silk Road Initiative and to international cooperation in ocean-related activities. The Belt and Road Initiative fits in seamlessly with the philosophy of sustainable development of the oceans and seas. […]

Second, we should facilitate the establishment of a fair and reasonable maritime order through adherence to the purposes and principles of UNCLOS. […] All parties should respect the principles and spirits as well as the legislative intent of the Convention and correctly interpret and apply the provisions of the Convention. China attaches importance to the responsibilities and roles of the three bodies under the Convention, namely, the International Tribunal for the Law of the Sea (ITLOS), the Commission on the Limits of the Continental Shelf (CLCS) and the International Seabed Authority (ISA), in maintaining maritime order and promoting the development, utilization and protection of marine resources. We would like to see the three bodies fulfilling their responsibilities within the purview of their respective mandates. This year, China will continue to contribute to the relevant trust funds for CLCS and ISA to facilitate the participation of commission members and experts from developing countries.

Third, we should conduct ocean-related consultations on the basis of consensus and develop ocean-related new rules in a progressive manner. The ongoing negotiations on an international legally binding instrument on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (BBNJ) are an important international legislative process. […] We see this process as essential for the optimization of global governance of oceans and seas, it therefore follows that the consultations must proceed in a stepwise, gradual manner and every effort should be made to reach outcomes by consensus. This applies also to ISA’s ongoing development of the draft exploitation regulations.

\textsuperscript{36} (www.china-un.org/eng/chinaandun/legalaffairs/nyf/t1516979.htm).
In our view, only when the relevant international instruments have been fully discussed and consulted upon, only when the interests and concerns of all parties have been accommodated, can they be accepted by the international community and eventually become universal instruments enjoying broad participation of the majority of States.37

IV.I.iii. Preparatory Meeting of the UN Ocean Conference

40. On 15 February 2017, a Chinese representative made a statement at the Preparatory Meeting of the UN Ocean Conference. He said,

Regarding the outcome document “Call for Action”, China endorses the statement made by Ecuador on behalf of the Group of 77 and China. China would just like to emphasize the following points:

First, the outcome document should stick to the 2030 Agenda for Sustainable Development and the requirements contained in the relevant UN follow-up documents including GA resolutions 70/226 and 70/303. It should be a concise, action-oriented political document, focusing on sustainable development. It should not involve sensitive political or legal issues. Neither should it be a legally binding document or establish any new mechanism. The outcome document should reflect the consensus of the international community and should be agreed upon by consensus.

Second, the outcome document may have the following elements:

1. On important concepts guiding the implementation of SDG14, it should encompass the fundamental concept of jointly building a marine community of shared future for mankind; the development concept of “innovation, coordination, green economy, opening up and common benefit” as well as the vision of marine ecological civilization with “harmony between humankind and oceans”.

2. Major principles to be followed in implementing SDG14 should include state-ownership, independence and voluntarism, so that countries will implement SDG14 autonomously in light of their own situations. Attention should be given to resolving actual issues encountered by developing countries in special situations, such as the small island developing countries, in the course of their development. Both conservation and sustainable use should enjoy equal emphasis. The principle of “common but differentiated responsibilities” should also be incorporated.

3. Regarding specific actions in implementing SDG14, it should include voluntary commitment, “blue economy” development, and building the “21st Century Maritime Silk Road”, among other initiatives aimed at achieving win-win cooperation.38

IV.I.iv. The 23rd Session of the International Seabed Authority

41. On 16 August 2017, a Chinese representative made a statement at the Assembly of the 23rd Session of the International Seabed Authority under the Item “Periodic Review”. He said,

The Periodic Review that started in 2015 was the first such review since the coming into force of the Convention. […] In the view of my delegation, the report has given an objective and factual evaluation of the work of the Authority and made constructive recommendations. As such, it serves as important guidance to the effort to improve the implementation of the international seabed regime and advance the work of the Authority going forward. In this connection, my delegation would like to make the following four comments on the future work of the Authority.

First, the Authority needs to strengthen its strategic planning. Currently, the international seabed undertaking is at a critical phase of parallel development of exploration and preparation for exploitation. An objective and science-based judgement on the situation and tasks facing the exploitation of international seabed resources is essential for guiding the activities carried out by the various parties in the Area. We believe that recommendation 17 contained in the report requesting the Secretary-General to submit a strategic plan to the Assembly is highly important. […] At the same time, the Authority needs to further strengthen the overall planning of the activities in the Area and formulate practical strategic plans on the understanding, protection, utilization and governance of the international seabed area.

Secondly, the Authority needs to strengthen participation in the formulation of rules and regulations. Universal participation is the prerequisite for the realization of the principle of “common heritage of mankind” and is essential to the acceptability and effectiveness of relevant rules and regulations. The Authority must give play to the central role of states parties in the formulation and development of rules and regulations. In all stages of the formulation process, from preparation to research, drafting, revision and finally completion, the participation of states parties, the developing countries in particular, must be effectively enhanced. In addition, it is also necessary to hear the views of all other stakeholders.

Thirdly, the institutional reform of the Authority should be guided by the principle of gradual progress. […] The Chinese delegation supports the Authority in working strictly under its mandate given by the Convention and the principles of gradual progress and cost-effectiveness to steadily advance the relevant institutional building. The implementation of the recommendations of the Periodic Review should lay emphasis on better implementing the system and institutional arrangements within the framework of the Convention rather than change the existing legal and institutional arrangements. Efforts are also needed to avoid adding unnecessary financial burden for states parties and contractors.
Fourthly, the Authority needs to strengthen communication and coordina-
tion with other relevant international organizations. […]\textsuperscript{39}

\textit{IV.I.v. Marine Biological Diversity of Areas Beyond National Jurisdiction}

42. On 21 April 2017, the Chinese Government sent to the Office of Legal Affairs of
the UN a Written Submission of the Government of the People’s Republic of China
on Elements of a Draft Text of an International Legally Binding Instrument under the
United Nations Convention on the Law of the Sea on the Conservation and
Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction.
The Submission was transmitted to the Chair of the Preparatory Committee established
by the General Assembly Resolution 69/292. The Written Submission reads, in part:

1. The Government of the People’s Republic of China (the Chinese
Government) attaches great importance to the conservation and sustainable use
of marine biological diversity of areas beyond national jurisdiction (BBNJ). China has sent
delegations to and actively participated in all the previous meet-
ings of the Ad Hoc Open-ended Informal Working Group of BBNJ and the
previous three sessions of the BBNJ Preparatory Committee (PrepCom). China
is willing to continue playing a constructive role in the future BBNJ consulta-
tions and to make its contribution to the endeavor of the international commu-
nity to better address the conservation and sustainable use of BBNJ.\textsuperscript{40}

\textit{IV.I.vi. Exploitation of Mineral Resources in the Area}

43. On 20 December 2017, the Chinese Government provided its preliminary com-
mments on the Draft Regulations on Exploitation of Mineral Resources in the Area
(Draft Regulations) contained in the document ISBA/23/LTC/CPR.3 and the rele-
vant questions listed by the Secretariat of the International Seabed Authority on the
Draft Regulations. The document stated that the preliminary comments are without
prejudice to the positions and views of the Chinese Government in its future partici-
pation in formulating of Regulations on Exploitation of Resources in the Area.\textsuperscript{41}

\textit{IV.J. Antarctic and Arctic areas}

\textit{IV.J. i. The Fourth International Arctic Forum}

44. On 29 March 2017, Chinese Vice Premier WANG Yang attended the 4\textsuperscript{th}
International Arctic Forum (IAF) themed “Arctic: Territory of Dialogue” in

Arkhangelsk, Russia, and addressed the opening ceremony. Wang Yang expressed that China is an important stakeholder in Arctic affairs, and has long participated in Arctic affairs in accordance with law. As a participant, builder and contributor of Arctic affairs, China is willing to and able to play a greater role in Arctic development and cooperation. China participates in Arctic affairs based on the three major policy principles of respect, cooperation and sustainability. Under the new situation, China advocates to enhance protection of Arctic ecological environment, continuously deepen scientific exploration in the Arctic region, legally and reasonably develop and use Arctic resources, and improve the Arctic governance system and mechanism, so as to jointly safeguard Arctic peace and stability. China is willing to deepen communication and expand cooperation with all countries, so as to jointly open up a bright and new future for the Arctic.

IV.J. ii. The 40th Antarctic Treaty Consultative Meeting (ATCM)

45. On May 23, 2017, the 40th Antarctic Treaty Consultative Meeting (ATCM) was convened in Beijing. It was the first time for China to assume as the ATCM host since it joined the Antarctic Treaty in 1983 and became a consultative member of it in 1985. Chinese Vice Premier ZHANG Gaoli attended and addressed the opening ceremony. ZHANG Gaoli pointed out that China is an important participant in Antarctic international governance, a robust promoter of Antarctic scientific exploration, and an active supporter of Antarctic environmental protection. Since China joined the Antarctic Treaty, the country has insisted on safeguarding the purposes and principles of the Treaty as well as the overall interests of the international community, actively fulfilled the rights and obligations vested by the Treaty, steadily advanced the development of Antarctic cause, and contributed its own wisdom and strength for mankind to understand, protect and utilize Antarctica.

46. China put forward five proposals: First, insist on utilizing Antarctica through peaceful means, enhancing political mutual trust and shared responsibility, and striving to build a community of common destiny for all mankind. Second, insist on abiding by the Antarctic Treaty system, making full use of the ATCM’s role in decision-making, planning and coordination, and improving the principle-based Antarctic governance pattern. Third, insist on equality, consultation, mutual benefit and win-win results, expanding the fields and range of Antarctic cooperation, and promoting the long-term development, stabilization and institutionalization of international cooperation, in a bid to make Antarctica become a new area of international cooperation. Fourth, insist on the freedom of Antarctic scientific exploration, enhancing the understanding of Antarctica’s changes and rules of development, and further consolidating the scientific foundation of protecting and utilizing Antarctica. Fifth, insist on protecting the natural environment of Antarctica, and well balancing the

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protection and utilization of Antarctica, so as to maintain the ecological balance and realize the sustainable development of Antarctica.43

IV.K. Outer space law

IV.K.i. International cooperation in outer space

47. On 14 June 2017, a Chinese representative made a statement on the overall situation of outer space at the Conference on Disarmament—Working Group on the “Way Ahead” in Geneva. He said,

[... ] Advances in space applications have been accompanied by an increase in the challenges facing both the security and development of outer space. Outer space security has become a strategic issue interwoven with the survival and development of mankind.

On the one hand, China has never denied the fact that orbital crowding, radio frequency interference increasing debris in space have resulted in deterioration of the space environment and posed a huge challenge to mankind in its continued utilization of outer space. This is an inevitable problem in the course outer space development. Countries have demonstrated their will to cooperate in addressing the issue through the UN and other multilateral and bilateral frameworks. Positive progress has been registered in this regard.

On the other hand, China takes the view that it is the weaponization of outer space and the resultant conflicts and arms race in outer space that pose the most fundamental challenge to long-term security and stability.44

IV.K.ii. The draft Treaty on Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force against Outer Space Objects (PPWT)


In the successive 36 years, the General Assembly adopted by an overwhelming majority the resolution on Preventing Arms Race in Outer Space and called for the negotiation of an outer space arms control treaty in the CD and continued consideration of the issues related to PAROS. This fully reflects the consensus of the international community on the prevention of weaponization of outer space and arms race in outer space and the general aspiration of concluding a treaty on the arms control in outer space in the framework of the CD as soon as possible.

44 (www.china-un.ch/eng/hom/t1472397.htm).
It was in line with the appeal of the international community to strengthen the outer space security regime that China and Russia tabled the draft PPWT Treaty to the CD in 2008, and then submitted the revised draft PPWT in 2014 after taking on board the extensive comments and concerns of all sides. Two core obligations were introduced, “to prohibit the placing of weapons in outer space and to prohibit the use or threat of force against objects in outer space”.

 […] PPWT not only contains the positions of China and Russia on this issue, but also takes on board the positions of states that support PAROS. We believe that PPWT represents the broadest international consensus and currently constitutes the most mature basis on which to negotiate a treaty on arms control in outer space in the framework of the CD.

 […] China believes that no state can dominate outer space and enjoy absolute security. States should establish a sense of community of common destiny where “we are bound together for good or for ill” and enjoy security of outer space together.

The prevention of weaponization of outer space and the arms race in outer space is a fundamental way to avoid further deterioration of the space environment, maintain safe, stable and sustainable development of outer space, ensure that all states benefit from space dividends. We hope that the CD will reach a balanced programme of work as early as possible in order to mandate the negotiation of the treaty on arms control in outer space, improve the legal mechanism of outer space security and contribute to the governance of outer space security.45

IV.K.iii. China’s position on the main issues in current space security processes

49. On 17 October 2017, a Chinese representative made a statement at the First Committee Thematic Discussion on Outer Space (Disarmament Aspects) of the 72nd Session of the UNGA. With regard to China’s position on the main issues in current space security processes, he said,

First, concerning the PAROS process,

Weaponization of and an arms race in outer space is the severe and fundamental threat faced by the international community in outer space. The UN has carried out a great amount of work on PAROS. Since 1981, the UNGA has adopted the resolution, emphasizing the importance and urgency of PAROS, and calling for the early negotiation of the relevant international legal document at the CD, which has been supported by an overwhelming majority of states,

45 (www.china-un.ch/eng/hom/t1472400.htm).
and seen no against from any state. This fully reflects the extensive agreement among the international community on the goal of PAROS.

China has been a dedicated advocate for non-weaponization of outer space, and made active effort in promoting an international legally-binding instrument on space arms control. In February 2008, China and Russia jointly submitted the draft of the Treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force against Outer Space Objects (PPWT, CD \(1839\)) to the CD, and submitted an updated version (CD/1985) in June 2014, which has seen extensive support from the CD members. […]

This year, Russia and China have introduced a draft resolution on “Further practical measures for the prevention of an arms race in outer space”. The purpose is to establish a UN Group of Governmental Experts, holding 2 two-week sessions in Geneva, each in 2018 and 2019, to consider and make recommendations on substantial elements of an international legally-binding instrument on PAROS, including on the prevention of placement of weapons in outer space. Its mandate also includes holding of a two-day open-ended informal consultative meeting in New York in 2019, so that all Member States can engage in interactive discussions and share their views. It’s natural for UN mechanisms to have specific focus on the work. This GGE has a clear focus while keeping necessary inclusiveness by opening to other themes like TCBMs, etc, without specifically mentioning them. It is not desirable to be inclusive while deflating the focus.

[…]

Last year, China joined Russia and other states in sponsoring the GA resolution of “No first placement of weapons in outer space” which was adopted with an overwhelming majority. This is another demonstration of the common aspiration of the international community for PAROS. China will continue to sponsor this resolution this year.

Secondly, concerning transparency and confidence building measures (TCBMs) in outer space.

China attaches importance to the TCBMs in space activities, and has co-sponsored the relevant UN resolutions. China is of the view that proper TCBMs in space activities are conducive to enhancing mutual trust, reducing miscalculation and regulating space activities. Such measures help to maintain space security by complementing a negotiated international legal instrument on preventing the weaponization of and an arms race in outer space, but cannot replace the legal instrument.

This year, China has submitted national position papers to the Secretary General and UNOOSA, elaborating its views on TCBMs, and the measures taken by China in implementing the 2013 GGE report.
During this year’s Disarmament Commission, China jointly proposed with relevant countries to include “preparation of recommendations of TCBMs in outer space activities with the goal PAROS”. Therefore, in the UNDC next cycle, we hope relevant work by the UNDC will make contributions to maintaining peace and stability in space.

[...]

Thirdly, concerning the joint session of the first and fourth committee on outer space.

The recent second joint session by the first and fourth committee on outer space has been a successful one. This is in line with the merging tendency of space security and development issues, and constitute an important effort within the framework of the UN in dealing with space issue. This practice is conducive to promoting co-ordinations among different UN mechanisms in addressing challenges encountered in space security and sustainability.46

IV.L. International cyberspace law

IV.L.i. International strategy of cooperation on cyberspace

50. On 9 March 2017, a Chinese representative made a statement on international strategy of cooperation on cyberspace at the Conference on Disarmament. He said,

[... ] Guided by the principle of win-win cooperation, China is actively engaged in international cooperation on cyberspace, and is committed to joining force with the international community in building a community of shared future in cyberspace.

[... ]

China attaches great importance to the development of the Internet, and is energetically promoting and actively participating in the international cooperation on cyberspace. We hope that all parties will join us in the effort to deepen the dialogue and cooperation, and that through our common efforts, we will build a peaceful, secure, open, cooperative and orderly cyberspace, and establish a multilateral, democratic and transparent system of global Internet governance.47

IV.L.ii. Information and cyber security

51. On 23 October 2017, a Chinese representative made a statement at the Thematic Discussion on Information and Cyber Security at the First Committee of the 72nd Session of the UNGA. He said,

46 (www.china-un.org/eng/chinaandun/disarmament_armscontrol/unga/t1505681.htm).
47 (www.china-un.ch/eng/hom/t1444602.htm).
Cyberspace is a new frontier for strategic security. A peaceful and prosperous cyberspace serves common interests of the whole international community. All parties should work together and build a community of shared future for mankind in cyberspace. To this end, China maintains that the following points should be borne in mind:

Firstly, to stay committed to the goal of maintaining the peace. Interests bind up all countries in cyberspace and put them in the same boat, hence to maintain the peaceful nature of cyberspace is crucial. All parties should observe the purposes and principles enshrined in the UN Charter faithfully, particularly principles of equality of sovereignty, non-interference of internal affairs, non-use of force or threat use of force and peaceful settlement of disputes, respect for others’ core interests and major concern and refraining from conducting cyber activities endangering other countries. Countries should discuss application of international law in the manner conducive to maintain peace, avoid introducing force, deterrence and countermeasures into cyberspace, so as to prevent arms race in cyberspace and reduce risks of confrontation and conflicts.

Secondly, to uphold cooperation and win-win concept. [...] No country can stay immune from threats and problems in cyberspace, and there is no such thing as absolute security. Countries should reject the Cold War mentality, zero-sum game and double standards and develop a new security concept featuring common coordination, comprehensiveness, cooperation and sustainability. Countries should enhance dialogue, and ensure perpetual common security on the basis of mutual respect, mutual benefit and win-win cooperation, and turn cyberspace into a new frontier for cooperation.

Thirdly, to take a multilateral approach. Cybersecurity is a global issue, hence it needs to be dealt with through cooperation and joint decision-making by all countries on equal footing. As the most representative and authoritative international organization, the UN should play the leading role in this course. [...] Discussion on developing international rules and a code of conduct accepted by all countries should be conducted within the UN framework and an open and inclusive process that allows more countries to participate in global internet governance should be established.

Fourthly, to give equal emphasis to development and security. Countries should fully tap the role of ICTs in promoting economic development. A sound and robust digital economy would not be possible if we sacrifice the vitality of development for the sake of absolute security, or sidestep necessary security supervision at the excuse of market and trade liberalization. [...] China attaches great importance on cybersecurity and IT application development. China is vigorously implementing the national strategies for buildup in
cyberspace and big data and the Internet Plus action plan. It promotes integration of the digital and real economies. This March, China published the International Strategy of Cooperation on Cyberspace, which provides a comprehensive explanation of China’s position and policies on international governance and cooperation in cyberspace. China participates actively in UNGGE and other multilateral cyber related processes, promotes digital economy cooperation within the framework of APEC and G20 as well as the development of a Digital Silk Road, strives to deepen pragmatic cooperation on cyber security within the framework of BRICS and SOC, and steps up bilateral cyber policy dialogues. China is ready to make more contributions along with other countries to building a secure, stable and prosperous cyberspace.48

IV.M. International human rights law

IV.M.i. Developing countries and human rights

52. On 7 December 2017, Chinese Foreign Minister Mr. WANG Yi made a speech titled “Advance the Global Human Rights Cause and Build a Community with a Shared Future for Mankind” at the Opening Ceremony of the First South-South Human Rights Forum. He said,

The future development of the human rights cause cannot be advanced without the concerted efforts of developing countries. Facing the deficit in peace, development and human rights in various parts of the world, developing countries should, guided by the general trends and the demand of our times, forge a new form of international relations featuring mutual respect, fairness, justice and win-win cooperation, build a community with a shared future for mankind, and make new efforts for social progress, improved livelihood and fundamental freedoms. Let me share with you some of my thoughts:

- We need to promote human rights through peace. Security is the most important human right. […]

We need to uphold the purposes and principles of the UN Charter and consolidate the foundation of peace. Historical experience and lessons tell us that no matter how the situation evolves, the basic principles of sovereignty and territorial integrity and non-interference in other countries’ internal affairs are still the unshakable foundation of international relations; no matter how the trend of the times develops, multilateralism and the collective security mechanism are still important pillars of international relations that should not be violated.

We need to forge partnerships with dialogue rather than wage confrontation and promote friendship rather than alliance. We need to tighten the bond of

peace. We need to urge various parties to abandon power politics and the law of the jungle and to promote greater democracy and the rule of law in international relations. We should adhere to the principle that all countries, big or small, are equal, and all civilizations should be treated as equals. We should accord each other equality and respect, and resolve disputes and differences through dialogue and consultation.

We need to foster the vision of common, comprehensive, cooperative and sustainable security and bolster the protection of peace. In the face of such global threats as terrorism, cyber security and climate change, no one should sit idly by or shift his troubles onto his neighbors. Joint commitment and concerted efforts are the only way out.

- We need to promote human rights through development. The right to development is the primary human right for developing countries. There are still over 700 million people living in hunger, more than 128 million people in need of humanitarian assistance, over 65 million displaced, and 24 million children in conflict zones who cannot go to school. All these are a serious “human rights deficit” that must be immediately addressed. The gap must be bridged and the challenges must be met.

We need to take poverty elimination as a central task, implement the 2030 Agenda for Sustainable Development and incorporate it into our development strategies. We need to advance economic, social and environmental progress in a balanced manner and vigorously pursue the goal of “zero poverty” to ensure that development outcomes will benefit all.

We need to seize the historic opportunity presented by the new round of scientific and technological revolution and industrial transformation, boost reform and innovation, speed up efforts to catch up with the trend of industrialization and modernization to realize “corner overtaking”. Developing countries need to leverage their competitive edges and share development experience to facilitate “leapfrog development”. Developed countries need to honor their commitments and take more and concrete measures in ODA, debt reduction and technology transfer to contribute to common development.

We need to uphold an open world economy, build a fair, equitable, inclusive and orderly international economic and financial system, promote trade and investment liberalization and facilitation, and foster an enabling environment for the growth of developing countries. We should make economic globalization more open, inclusive, equitable, and balanced so that the development dividend will be shared by all countries and all peoples.

- We need to promote human rights through cooperation. The essence of human rights is to promote well-rounded human development. To attain the goal, equal-footed cooperation is the fundamental way. Human rights, when used as a means of pressure, will only hurt oneself as well as others, whereas
serving as a bond of cooperation, human rights could benefit all. It is important to
work for dialogue and cooperation between all parties on the basis of equality and
mutual respect. No one is in a position to lecture others on human rights, nor has
the right to level prejudiced accusations at other countries’ human rights practices.

There is no one-size-fits-all approach in human rights practices. No one path
of human rights development should be regarded as the only choice, nor should
we mechanically follow the paths of other countries. Instead of imposing either
eastern or western models, we need to advocate diversity and localization, and
work for a rebalancing of human rights models. No one path or system is supe-
rior to others as each has its own distinctive features. It is important to draw on
the strengths of others and seek harmony without uniformity. All countries
should respect others’ human rights paths and systems while pursuing their
own, and advance human rights development for all.

- We need to promote human rights through equality. [...] 

We need to work to increase the representation and voice of developing countries
in global human rights governance system, and to ensure that the international hu-
man rights institutions truly reflect the needs and interests of developing countries
in terms of rule-making, membership and staff structure, as developing countries ac-
count for four-fifths of the UN member states and 80% of the world’s population.

We need to work for accommodation of the concerns of developing countries
in international human rights cooperation. There should be greater attention to
the right to development as well as economic, social and cultural rights and in-
creased input in such areas as development, health, sports, women, children,
and people with disabilities to promote balanced progress of the two categories
of human rights. Efforts should also be made to advance just and equitable
human rights governance to enable developing countries to benefit from inter-
national human rights cooperation and governance.49

IV.M.ii. The UN Human Rights Council

53. On 2 November 2017, a Chinese representative made a statement at the General
Debate on Agenda 67: Report of the Human Rights Council at the Third
Committee of the 72nd Session of the UNGA. He said,

As the organ within the UN system bearing the primary responsibility for the
promotion and protection of human rights, the Human Rights Council should
serve as an effective platform for constructive dialogue and cooperation among
all parties. Over the past year, the Human Rights Council has done a lot of use-
ful and commendable work in safeguarding the rights of vulnerable groups,

49 (www.china-un.org/eng/hyyfy/t1396325.htm).
opposing racial discrimination and affirming the contribution of development to the enjoyment of human rights.

At the same time, the Human Rights Council also faces multiple challenges in its work. First, there is a growing tendency of confrontation and politicization. The prevailing practice of naming and shaming, public exertion of pressure, double standards, and confrontation have given rise to resentment and concern of many countries. Second, different types of human rights are not promoted in a balanced manner and the human rights of the most concern to developing countries, namely, economic, social and cultural rights and the right to development are not accorded due attention. Third, some special procedures, going beyond their terms of reference, made irresponsible comments based on unreliable information and refuse to engage in effective communication with the governments of member states. Instead, they are keen to exert pressure publicly. Fourth, the agenda of the meetings is overloaded and the number of meetings keeps increasing, casting serious doubt on the Council’s capacity in time management and on its efficiency. Fifth, some NGOs abuse their consultative status with ECOSOC, make politically motivated malicious attacks against governments of member states in violation of the purposes and principles of the UN Charter and in breach of the sovereignty and territorial integrity of member states.

In the view of China, a better conduct of its work and enhancement of its credibility are essential to the maintenance of the authority of the Human Rights Council. We hope that the Human Rights Council will pay full attention to the above-mentioned problems, carry out its work according to the mandate given by the General Assembly in a just and objective manner, facilitate dialogue and cooperation among all parties, respect the sovereignty of member states, advance all types of human rights in a balanced manner and improve its efficiency. The Council should also urge the experts of its special procedures to abide by the Code of Conduct for Special Procedures Mandate-holders, and regulate the participation of NGOs in its proceedings, so as to really make itself a platform for countries to engage in exchanges and cooperation in the field of human rights, learn from each other and make common progress. Only in this way can the Human Rights Council make its due contribution to the healthy and sustainable development of the international human rights cause.50

IV.M.iii. Work of the UN High Commissioner for Human Rights and OHCHR

54. On 16 October 2017, a Chinese representative made a statement during the Interactive Dialogue with the High Commissioner for Human Rights at the Third Committee of the 72nd Session of the UNGA. He said,

50 (www.china-un.org/eng/chinaandun/socialhr/rqwt/t1507212.htm).
At present, efforts to promote and protect human rights at the global level still face many challenges. The OHCHR should play an active role in promoting the healthy development of the international human rights cause. We hope that the OHCHR will continue to make efforts in the following areas:

1. Strictly abide by the purposes and principles of the UN Charter, respect the sovereignty and territorial integrity of all countries, refrain from interfering in member states’ internal affairs, and avoid making irresponsible comments or acting beyond mandate.

2. Firmly resist politicization and double standards on human rights issues, renounce the practice of openly exerting pressure, respect and maintain the intergovernmental nature of the UN human rights mechanism and uphold the principle of member state leadership.

3. Fully respect the differences among countries in level of development, social system, and historical and cultural tradition, respect the path towards human rights development chosen by the people of a country, and support countries in strengthening dialogue and cooperation on the basis of equality and mutual respect.

4. Advance civil and political rights, economic, social and cultural rights and the right to development in a balanced manner, and increase input to the latter two areas which are the focus of attention of developing countries.

5. Pay attention to technical cooperation on human rights issues and provide constructive help in human rights capacity building to countries on the basis of full respect for their national conditions and their wishes.

6. Enhance transparency, and broadly seek the views of member states and reflect their perspectives in a comprehensive and balanced manner in formulating and implementing the biennial budget and management plan. The serious imbalance in geographical representation of the staff of the OHCHR must be resolved as soon as possible.

We believe that the work of the OHCHR has room for further improvement, and hope the High Commissioner will perform his duty impartially according to the mandate given by the General Assembly and play an active role in tackling global human rights challenges and promoting the healthy development of the international cause of human rights.⁵¹

IV.M.iv. Treaty bodies, NGOs and the implementation of human rights instruments

55. On 13 October 2017, a Chinese representative made a statement on the Agenda Item “Implementation of Human Rights Instruments” during the Third Committee meeting of the 72nd Session of the UNGA. He said,

⁵¹ (www.china-un.org/eng/chinaandun/socialhr/rqwt/t1502544.htm).

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The Chinese government commends the efforts by various treaty bodies to review the implementation by the states parties of human rights instruments, and supports the treaty bodies in conducting their work within their respective mandates. More than 3 years after the adoption of the GA resolution on strengthening and enhancing the effective functioning of the human rights treaty bodies (Res.68/268), the overall implementation of the resolution still falls short of the goal of strengthening and enhancing the effective functioning of the treaty body system, with some problems such as uneven implementation of different provisions, lack of transparency, and inadequate attention to the views of states parties.

China believes that measures to reform the treaty body system should aim at facilitating constructive dialogue and cooperation between treaty bodies and states parties, ensure the objectivity and impartiality of the work of treaty bodies, and steer clear of politicization and selectivity. As both the founder of human rights treaty bodies and the main executor of treaty obligations and recommendations of treaty bodies, states parties should play a leading role in the reform of the treaty body system, and the compliance reports provided by the governments of states parties demand full attention. Meanwhile, China welcomes the participation of civil society, including NGOs and other stakeholders, in the work of treaty bodies in accordance with the spirit of relevant UN resolution and in proper formats. The materials they submit should be screened by the relevant treaty bodies to ensure their factual accuracy and reliability, in order to arrive at a comprehensive, objective and impartial assessment of the implementation by the states parties concerned.

[...]

The Chinese government appreciates the efforts by the various human rights treaty bodies to prepare, within the purview of their mandates, general comments on treaty provisions. We are of the view that since the treaty body system is derived from the various human rights treaties, its operation should be in strict compliance with treaty provisions. The general comments must be faithful to the original intent of the treaty, and must avoid any expanded interpretation of the treaty provisions as well as additional burdens for states parties. In the course of preparing the general comments, the treaty bodies need to broadly solicit opinions from all parties, especially states parties. China stands ready to continue to explore this topic in-depth together with other countries, in order to ensure the effective operation of treaty bodies within their respective mandates and enable states parties to better play their leading role in the reform of human rights treaty bodies.52

52 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1502038.htm).
IV.M.v Women’s rights
56. On 6 October 2017, a Chinese representative made a statement at the Third Committee meeting of the 72\(^{nd}\) Session of the UNGA under the Agenda Item: Advancement of Women. He said,

The Chinese government has set gender equality as its basic national policy, and is now putting even greater emphasis on the comprehensive advancement of women. China has formulated over 100 laws, rules and regulations aimed at safeguarding women’s rights and interests, including the Employment Promotion Law and the Anti-domestic Violence Law. A multitude of integrated measures have been adopted to promote women’s entrepreneurship and employment, women’s participation in decision making and management, improvement of women’s health, and women’s equal access to education. According to the midterm review of China National Program for Women’s Development (2011-2020), 44 of the 54 key statistical indicators for monitoring and assessment have been reached ahead of schedule or basically reached, which represents an achievement rate of 81.5%. At present in China, women account for 42.9% of the total employment, maternal mortality rate has been reduced to 20.1 per 100,000, and women take up 49.7% and 52.4% of the total graduate and undergraduate student enrollment respectively in institutions of higher learning.

China is actively implementing the commitment announced by President Xi Jinping at the Global Leaders’ Meeting on Gender Equality and Women’s Empowerment in 2015. China has honored its pledge to UN Women for 2016 and 2017, and is steadily rolling out its training programs for women from developing countries. China is also actively conducting people-to-people exchanges through bilateral and regional mechanisms in an effort to promote the exchanges and cooperation with women organizations in countries along the route of the Belt and Road.

China will continue to actively participate in international exchanges and cooperation on the advancement of women, and contribute to the global cause of gender equality.\(^{53}\)

IV.M.vi. Children’s rights
57. On 11 October 2017, a Chinese representative made a statement on the Agenda Item “Rights of Children” at the Third Committee meeting of the 72\(^{nd}\) Session of the UNGA. He said,

Children represent the future and the hope of a nation and its development. With around 280 million children, China is among the countries with the

\(^{53}\) (www.china-un.org/eng/chinaandun/socialhr/genderequality/t1499808.htm).
largest child population. The Chinese government attaches great importance to the protection of the rights of children. It has been our consistent goal to promote the all-round development of children. China has worked relentlessly to advocate and put into practice the principle of “children first” by drafting and implementing three successive National Plans of Action for Child Development in China in an effort to fulfil the commitment of the 27th Special Session of the GA on Children and implement the Convention on the Rights of the Child (CRC) and its relevant Protocols, giving a strong impetus to the coordinated progress of the cause of children and of economic and social development. In recent years, the Chinese government has given more prominence to the promotion of the rights of children. The National People’s Congress, the highest legislative body in China, adopted the 13th Five-year Plan on Economic and Social Development, which devotes a section to “Healthy Development of the Minors”. Legislation, rules and regulations have been promulgated, including the Anti-domestic Violence Law, the Opinions on the Care and Protection of Left-Behind Children, and the Opinions on Enhancing Safeguards for Children in Vulnerable Situations. A series of important measures have been taken, including projects to improve nutrition of children in poverty and the three-year program of action on pre-school education, to better safeguard the rights of children.

[...]

China is a state party to the Convention on the Rights of the Child and its two Optional Protocols, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, and the Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption. China has already submitted for review its 3rd and 4th combined reports on the implementation of CRC and the initial report on the implementation of the two Optional Protocols. It shows the importance the Chinese government attaches to international human rights instruments, and the responsible manner in which we enhance dialogue and cooperation with the relevant treaty bodies.54

IV.M.vii. Protection of migrants

58. On 20 November 2017, a Chinese representative made an Explanation of Position on the Draft Resolution “Protection of Migrants” at the Third Committee meeting of the 72nd Session of the UNGA. He said,

The New York Declaration for Refugees and Migrants adopted in September 2016 reaffirms our commitment to international law, and emphasizes that the

54 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1501102.htm).
declaration is to be implemented in a manner that is consistent with the rights and obligations of States under international law. While it contains a series of commitments to refugees and migrants, the Declaration also specifies that in implementing these commitments, different national realities, capacities and levels of development must be taken into account and national policies and priorities must be respected. […]

As migration is a multi-dimensional issue, our response should be a holistic and concerted one. We should formulate policies for safe, orderly and regular migration and expand channels for regular migration. We also need to enhance cooperation against human trafficking, smuggling and other forms of irregular migration so as to create a favorable environment for regular migration. On the protection of migrants, we must protect their human rights and fundamental freedom, eliminate discrimination and xenophobia and help them integrate into local communities. At the same time, migrants should also accept the administration of the host countries, abide by the laws and regulations, follow local customs and actively integrate into local communities and cultures.55

IV.M.viii. Rights of indigenous peoples
59. On 12 October 2017, a Chinese representative made a statement on the Agenda Item “Rights of Indigenous Peoples” during the Third Committee meeting of the 72nd Session of the UNGA. He said,

On the 8th of September, the 71st session of the GA adopted Res. 71/321 on “Enhancing the Participation of Indigenous Peoples’ Representatives and Institutions in Meetings of Relevant United Nations Bodies on issues affecting them”. China would like to reiterate that currently, there is no international consensus on the definition of “indigenous people”, and that not all countries have indigenous people, still less should native residents be equated to indigenous people. The specific arrangements for enhancing the participation of indigenous peoples in UN meetings must be in line with the purposes and principles of the UN Charter, respect the sovereignty, territorial integrity and political unity of member states and effectively maintain the inter-governmental nature of the United Nations. The relevant GA consultations must be led by member states and arrive by consensus at an arrangement acceptable to all. China will continue to engage with all parties regarding the relevant process and play a positive role in the consultations.56

IV.M.ix. The safety of journalists and the issue of impunity

55 (www.china-un.ch/eng/hom/t1345024.htm).
56 (www.china-un.org/eng/chinaandun/socialhr/3rdcommittee/t1406623.htm).
Impunity” at the Third Committee meeting of the 72nd Session of the UNGA. He said,

China expresses concern over the term “media workers” in some paragraphs of the resolution. In our view, there is no clear and internationally agreed definition on media workers. With the rapid development and accessibility of information technology, especially the emergence of new media, the scope of “media workers” is expanding. The ambiguity of this term and the lack of clear definition thereof have led to different interpretations. This might cause unnecessary misunderstanding of this resolution. During the consultations, China repeatedly proposed to change this term to “media professionals”, in order to avoid the afore-mentioned misunderstanding. However, our proposal was not taken on board. China expresses its regret at this.

We wish to stress here that China will remain committed to the comprehensive rule of law and actively fulfilling its obligations under relevant international law. We will, based on our domestic law, protect the human rights and fundamental freedoms of all citizens, including journalists. And we will interpret this resolution as we understand it and in accordance with our domestic law. We will not accept any element that contradicts our laws, regulations and policies.57

IV.M.x. Human rights defenders

61. On 20 November 2017, a Chinese representative made a statement during the dialogue with the Special Rapporteur on the situation of human rights defenders at the Third Committee meeting of the 72nd Session of the UNGA. He said,

China also takes note of the unverified information and data that the special rapporteur quoted in his report to make unwarranted comments on China and multilateral financial institutions such as the Asia Infrastructure Investment Bank and the New Development Bank. China expresses its concern in this regard and hopes that the special rapporteur will strictly comply with his mandate, use truthful and reliable information, carry out his activities in a just and objective manner and engage with countries in constructive dialogue and cooperation.

Committed to the promotion and protection of human rights at all times, the Chinese government supports activities to promote and protect human rights within China’s legal framework. China is of the view that as there is no clear and universal definition worked out through intergovernmental negotiation on “human rights defenders”, countries have different views on who can be defined as “human rights defenders”. All people should enjoy the same human rights and fundamental freedoms on an equal basis. Human rights defenders

57 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1512715.htm).
should not be regarded as a special group to be granted special rights and status. Those who have violated law or engaged in criminal activities in the name of “human rights defenders” to undermine the interests of the majority of people or public order should be brought to justice according to law.58

IV.N. International humanitarian law

IV.N.i. Trafficking in persons in armed conflict

62. On 15 March 2017, a Chinese representative made a statement at the Security Council debate on trafficking in persons in conflict situations. He said,

[...] China strongly rejects all forms of trafficking in persons in armed conflict and supports international efforts to tackle this scourge in a concerted manner.

First, we must step up efforts to combat trafficking in persons and slavery in conflict situations, as perpetrators—armed groups, terrorist organizations and transnational organized criminal networks—are highly mobile and can move across borders. This issue concerns countries of origin, transit and destination. On one hand, the international community should vigorously support the countries concerned in combating criminal activities and provide them with targeted capacity-building support in the areas of law enforcement, border control and financial regulation, in line with their own national conditions and upon their request. On the other hand, we need to enhance international cooperation with a focus on law enforcement collaboration and leverage the role of regional and subregional organizations and pool all resources available to investigate, disrupt and dismantle trafficking networks. [...] 

Secondly, we need to attach greater importance to combating terrorism. Terrorist organizations, such as the Islamic State in Iraq and the Levant, obtain funding by means such as trafficking in persons, forced labor and slavery and resort to brutal tactics. The international community should uphold uniform counter-terrorism standards; take coordinated and concerted action; exercise zero tolerance against terrorism and resolutely address crimes of trafficking, exploitation and enslavement of populations in conflict situations, in particular women and children; take an integrated approach that encompasses political and economic means and stop the financial flow of funds obtained from trafficking in persons and slavery to terrorist organizations; and dismantle their criminal networks. [...] 

Thirdly, we must reinforce efforts towards a political settlement of conflicts. [...] The international community should work harder to find political solutions to hotspot issues with a renewed sense of urgency, assist countries in conflict in advancing their political process and their national reconciliation in line

with the purposes and principles of the Charter of the United Nations and in settling their disputes and bridging their differences by peaceful means, including through dialogue and consultation. We need to give greater weight to the prevention of conflicts and help countries to improve their ability to achieve sustainable development, consolidate a basis for peace and root out the conditions and drivers for trafficking in persons and slavery in conflict situations, so as to provide an enabling external environment for the protection of women and children in conflict situations.

China will continue to support the international community in exercising a zero-tolerance policy against trafficking in persons in armed conflict and enhancing the protection of the rights of women and children in armed conflict. China will work with its partners to safeguard peace, security, stability and development at the international and regional levels.59

IV.N.ii. Sexual violence in conflict
63. On 15 May 2017, a Chinese representative made a statement at the Security Council debate on sexual violence in conflict. He said,

We must first prevent and defuse armed conflicts through peaceful means and eliminate sexual violence in conflict at its roots. The international community should stick to the general direction of finding political solutions to hotspot issues and resolve conflict peacefully through negotiations, good offices and mediation. In all phases of the peace process, efforts are to be made to ensure women’s full right of participation and decision-making. Attention is also to be given to women’s unique advantages in effectively addressing their security concerns and making them a major force in concluding peace.

Secondly, we must enhance the capacity of countries concerned to combat sexual violence in conflict. The countries concerned bear the primary responsibility for preventing and combating sexual violence in conflict and protecting their women and children. The international community should respect the sovereignty and will of the countries concerned, respect the measures they adopt in the light of their own situations, actively provide constructive assistance to the countries concerned, enhance their capacity-building in the areas of security, economy and governance, and facilitate the implementation of the Security Council and General Assembly resolutions on women and peace and security.

Thirdly, we must increase efforts to combat terrorism and cross-border organized crime. The international community should pay close attention to the new phenomenon of sexual violence perpetrated by terrorist organizations,

59 (www.china-un.org/eng/chinaandun/securitycouncil/thematicissues/civilians_ac/t1450714.htm).
maintain unified standards, and strengthen cooperation to effectively fight international terrorism, especially terrorist activities, their financing, trafficking in persons and the spread of extremist ideologies with the aim of committing sexual crimes through the use of the Internet and social media. The relevant countries should strengthen border control and law enforcement cooperation, share counter-terrorism information and resources, and shut down the channels used by terrorists to travel.

Fourthly, we must ensure the synergy of United Nations institutions. The Security Council should assume its primary responsibility for maintaining international peace and security, and strengthen coordination with the General Assembly, the Economic and Social Council, the Peacebuilding Commission, UN-Women and other relevant agencies to coordinate the handling of issues related to the women and peace and security agenda.60

IV.N.iii. Children and armed conflict

64. On 31 October 2017, a Chinese representative made a statement at the Security Council Open Debate on Children and Armed Conflict. He said,

We should first continue to fight terrorism in all its forms in order to keep children from harm. The international community should have zero tolerance towards terrorism, whatever the situation, and should resolutely combat crimes in which terrorist groups kill, abuse or kidnap children. The international community should take effective measures and work together to combat terrorist groups’ abuse of the Internet and social media to spread violent or terrorism-related audiovisual content with the aim of finding recruits and inciting violent or extreme activities. […]

Secondly, we should respect the leadership of the countries concerned and create a solid basis for child protection. It is the Governments of countries in conflict that have the primary responsibility to protect their children, and therefore the key to implementing resolutions, programs and plans aimed at protecting children lies in promoting the efforts and coordination of the countries involved. […]

Thirdly, we should increase our international humanitarian assistance and provide concrete help to children affected by armed conflict. While taking an approach that respects the sovereignty of countries in conflict, the international community should uphold the principles of humaneness, impartiality and justice in ensuring that children affected by armed conflicts have access to food, health care, education and other humanitarian assistance. […]

60 (www.china-un.org/eng/chinaandun/securitycouncil/thematicissues/women_ps/t1464573.htm).
Fourthly, we should have an integrated strategy and work to establish international synergy in the area of child protection. In post-conflict construction, attention should be given to help children suffering from the effects of armed conflicts to reintegrate successfully and to create a security and social environment conducive to their healthy development. […] 61

IV.N.iv. Protection of civilians and medical care in armed conflict
65. On 25 May 2017, a Chinese representative made a statement at the Security Council debate on protection of civilians and medical care in armed conflict. He said,

First, focus must be placed on conflict prevention and resolution so as to eliminate the root causes that jeopardize the safety of civilians, medical workers and their facilities in the first place. Countries must foster a sense of building a community of shared future for mankind and promote a system of global governance based on joint consultations and contributions and shared benefits in order to build a peaceful and a stable international environment.

[…]

Secondly, the Government and the parties to a conflict are duty-bound to protect the civilians. National Governments bear the primary responsibility when it comes to the protection of their civilians. Parties to conflict must respect international humanitarian law and implement all relevant resolutions of the Council, including resolution 2286 (2016); honor their obligation to protect civilians, medical workers and their facilities; and ensure that there is humanitarian access.

[…]

Thirdly, it is necessary to adopt a holistic approach and a working synergy. The civilian protection mandate embedded within United Nations peacekeeping operations, being an important means to protect civilians as it is, must strictly abide by the Council’s mandate and should not be seen as a replacement for the responsibility and obligation to protect civilians that fall to national Governments and the parties to the conflict. When designing a protection of civilians mandate, the Council should take into account to the overall condition and requirement of the host country and the capacity and the conditions of the peacekeeping missions so as to ensure that the relevant mandate is clear, practical and feasible.

[…]

Fourthly, we must do a good job of providing humanitarian assistance in armed conflict. China hereby pays tribute to all medical workers and humanitarian relief agencies for their humanitarian spirit in healing the wounded and

rescuing the dying in armed conflict. We hope that, in carrying out their noble mission, they will abide by the purposes and principles of the Charter of the United Nations, observe the guiding principles of United Nations humanitarian assistance, respect the sovereignty and territorial integrity of the host country, make a special effort to win the understanding and trust of the parties concerned and avoid being themselves involved in the conflict. Such an approach is conducive to the safety and security of medical personnel, their facilities and the humanitarian workers operating in armed conflict. The United Nations should play its coordinating role, keep channels open with all parties to the conflict and strengthen its supervision of humanitarian workers and others involved so as to create conditions for timely and safe humanitarian access.\textsuperscript{62}

\textit{IV.N.v. International protection of refugees}

66. On 2 November 2017, a Chinese representative made a statement during the General Debate on the Item of Refugees at the Third Committee meeting of the 72\textsuperscript{nd} Session of the UNGA. He said,

Over the past year, under the leadership of High Commissioner Grandi, UNHCR has made vigorous efforts to advance internal reform, strengthen coordination, and enhance its capacity for emergency response, thus playing a positive role in protecting the welfare of the refugees and responding to the refugee crisis. China highly appreciates those efforts. China has always maintained good cooperation with UNHCR. Last June, High Commissioner Grandi made a successful visit to China when agreement was reached on many points concerning deepening cooperation between China and UNHCR. China will continue to support the work of UNHCR and the High Commissioner.

[...] China advocates the establishment of a new type of international relations based on mutual respect, fairness, justice and win-win cooperation, and the building of a community of shared future for mankind. This concept serves as an important guide to the improvement of the global effort to address the refugee problem. Last May, China successfully hosted the Belt and Road Forum for International Cooperation during which more than 270 outcomes have been reached, including provision by China to the countries along the Belt and Road, 100 refugee assistance projects on food, tents and prefabricated houses, education opportunities for 500 refugee adolescents and financial aid to 100 refugee athletes for them to attend international and regional sports games. China stands ready to continue to work with all sides to actively contribute to the

\textsuperscript{62} (www.china-un.org/eng/chinaandun/securitycouncil/thematicissues/civilians_ac/t1467913.htm).
improvement of the global effort to address the refugee issue and the promotion of the international cause of refugee protection.\footnote{www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1507214.htm.}

IV.N.vi. Humanitarian situation in Myanmar’s Rakhine state

67. On 28 September 2017, a Chinese representative made a statement at the Security Council debate on Myanmar. He said,

China condemns the recent violent attacks in Myanmar’s Rakhine state and supports Myanmar’s efforts to maintain domestic stability. We sincerely hope that order will again prevail as soon as possible so that no more harm will come to innocent civilians, and that social stability, unity among ethnic groups and economic development will be sustained.

The question of Rakhine state is rooted in a nexus of complex historical ethnic and religious factors. Many of the differences and antagonisms in the state have built up over a long time, which cannot be solved overnight. A viable solution will be one that goes hand in hand with the peace and reconciliation process in Myanmar. China has taken note of a series of measures taken by the Government of Myanmar to ease the situation in Rakhine state and maintain its stability, which is conducive to the search for a long-term solution to the issue. It behooves the international community to view the difficulties and challenges confronting the Government of Myanmar objectively, while exercising patience and providing support and help.

China commends Bangladesh for overcoming difficulties to improve the humanitarian situation on the ground. We welcome the Myanmar Government’s cooperation in humanitarian operations with the International Committee of the Red Cross and other international bodies. The international community should encourage and support dialogue and communication between the two countries so that they can duly address the mass exodus of the Muslim population seeking refuge in Bangladesh and find a definitive solution.

China, as a friendly neighbor of both Myanmar and Bangladesh, has been actively engaging with those countries to influence them positively and encourage them to address the issue through dialogue and consultation. China has provided and will continue to provide assistance necessary for accommodating the displaced. As we speak, the situation on the ground is beginning to stabilize.

All parties should work constructively to help reinforce that momentum, de-escalate the situation and alleviate the humanitarian conditions step by step. China stands ready to work with all parties concerned to contribute constructively to the restoration of order and the achievement of peace and stability in Rakhine state.\footnote{www.china-un.org/eng/chinaandun/securitycouncil/regionalhotspots/asia/others/t1499433.htm.}

63 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1507214.htm).
64 (www.china-un.org/eng/chinaandun/securitycouncil/regionalhotspots/asia/others/t1499433.htm).
IV.O. International law on arms control, disarmament and non-proliferation

IV.O.i. Non-proliferation of weapons of mass destruction

68. On 28 June 2017, a Chinese representative made a statement at the Security Council debate on non-proliferation of weapons of mass destruction. He said,

The international community needs to work together and do a better job in the following areas of global non-proliferation governance.

First, we need to build political consensus and address both the symptoms and root causes of the problem. We need to abandon the Cold War mentality; establish a new concept of common, comprehensive, cooperative and sustainable security; improve the security environment of all countries; and eradicate the breeding grounds of terrorism and proliferation activities as soon as possible. At the same time, there is a need to comprehensively implement non-proliferation obligations and political commitment in that regard, and commit ourselves to combating the existing threats of proliferation.

Secondly, we need to strengthen national responsibility and build a line of defense against proliferation. National Governments bear the primary responsibility for non-proliferation. We need to respect and provide support to countries—based on their specific circumstances—in their efforts to formulate non-proliferation policies, improve legal and regulatory systems on non-proliferation and enhance capacity-building in non-proliferation law enforcement with a view to building a strong line of defense.

Thirdly we need to deepen international cooperation and enhance non-proliferation capacity. All countries must actively participate in global non-proliferation governance, while ensuring the respect for sovereignty, all countries should engage in exchanges and mutual learning, as well as pragmatic cooperation in an open, inclusive, mutually beneficial and win-win spirit so as to improve connectivity capacity and the level of non-proliferation. The needs of developing countries for international assistance in non-proliferation should be substantively met.

Fourthly, we need to take a multi-pronged approach to implement resolution 1540 (2004) comprehensively and effectively. [...] The Committee established pursuant to resolution 1540 (2004) needs to strictly abide by the mandate conferred upon it by the resolution, continue to take forward the spirit of cooperation, focus on strengthening its assistance function so as to enhance the awareness and capacity of Member States in implementing the resolution and promote international cooperation in the area of non-proliferation.

China resolutely opposes the proliferation of WMDs and their means of delivery, and has always strictly fulfilled its international non-proliferation obligations. We have taken an active part in regional and international non-proliferation cooperation, worked hard to promote the political settlement of
hotspot issues in the area of non-proliferation and supported the United Nations to play a key role in that regard.\textsuperscript{65}

\textbf{IV.O.ii. Nuclear disarmament and non-proliferation}

69. On 3 April 2017, the Chinese representative made a statement at the General Debate of the United Nations Disarmament Commission 2017 Substantive Session. He said,

China has made steadfast efforts to consolidate the multilateral disarmament treaty mechanisms, and has been committed to strengthening the universality, authority and effectiveness of international arms control and non-proliferation treaties. As the cornerstone of the international non-proliferation regime, Treaty on the Non-proliferation on Nuclear Weapons (NPT) has established three pillars, i.e. Nuclear disarmament, non-proliferation and peaceful uses of nuclear energy. All parties should abandon double standards and pragmatism, and implement their respective treaty obligations in a comprehensive, earnest and balanced manner.

China has always stood for complete prohibition and thorough destruction of nuclear weapons, and has been earnestly fulfilling its obligations of nuclear disarmament under NPT. China will never engage in nuclear arms race in any form, and will continue to keep the nuclear force at the minimal level required by national security. China firmly adheres to a nuclear strategy of self-defense, a policy of no-first-use of nuclear weapons at any time and under any circumstance, and makes unconditional commitment not to use or threaten to use nuclear weapons against non-nuclear-weapon states or nuclear weapon free zones.

China supports UNDC in adopting an outcome document regarding recommendations of achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons.

At present, disputes widen in advancing nuclear disarmament. China is of the view that nuclear disarmament cannot be achieved overnight and can only be taken forward through a step-by-step approach, following the principles of maintaining the global strategic stability and undiminished security for all. Negotiations on nuclear disarmament should only take place within the existing international disarmament and non-proliferation regime such as the Conference on Disarmament (CD). Countries possessing the largest nuclear arsenals should take the lead in reducing their nuclear weapons substantially and substantively, thus creating conditions for the ultimate realization of complete destruction and total elimination of nuclear weapons.

China firmly opposes the proliferation of nuclear weapons in any form and works for the diplomatic resolution of regional hot-spot nuclear issues. China

\textsuperscript{65} (www.china-un.org/eng/lhghyywjsmhwj/2017slkj/t1474836.htm).
has signed and ratified all additional protocols to the treaties on nuclear-weapon-free zones open for signature, and will continue to support non-nuclear weapon states, in accordance with the reality of the region, to establish nuclear-weapon-free zones on the basis of arrangements freely arrived at.

On FMCT, China always supports its early negotiation in the CD, and participated in the work of the UN Group of Governmental Experts in a constructive manner. The reason that China voted abstention on the relevant First Committee resolution of the 71st Session of the UNGA is that China holds firmly that the CD is the only proper venue for the negotiation of FMCT, and to negotiate and conclude this treaty on the basis of the Shannon Mandate in the CD is the only way out. At the same time, China is of the view that universal participation of all key parties is essential to the preparation and negotiation of the treaty.

On the Comprehensive Nuclear-Test-Ban Treaty (CTBT), China supports its objectives and purposes and honors the commitment of moratorium on nuclear test. Last June, Mr. LI Baodong, vice-minister of the Ministry of Foreign Affairs of China, led a delegation to the Ministerial Meeting of the Twentieth Anniversary of the CTBT, and reiterated China’s political commitment to the Treaty. At the end of last year, the radionuclide station in Lanzhou of China has been certified by Preparatory Committee of CTBTO, making it the first certified monitoring station under CTBT in China.66

IV.O.iii. Nuclear Issue on the Korean Peninsula
70. On 28 April 2017, Chinese Foreign Minister WANG Yi made a statement titled “Stay Committed to the Goal of Denuclearization Uphold Peace and Stability on the Peninsula” at the UN Security Council Ministerial Session on the Nuclear Issue on the Korean Peninsula. He said,

First, we must cool down tensions on the Peninsula as quickly as possible. Given the grave situation there, China strongly urges all parties to remain cool-headed and exercise restraint, and avoid provocative rhetoric or actions that would lead to miscalculation. I want to stress that there isn’t and should not be any double standard in this regard. We ask the DPRK to observe the Security Council resolutions and stop advancing its nuclear and missile development. At the same time, we ask the US, the ROK and other parties to refrain from conducting or even expanding military exercises and deployment against the DPRK.

Second, all parties should observe and implement DPRK-related Security Council resolutions in their entirety. In addition to imposing sanctions on the DPRK, the resolutions adopted to date also call for the resumption of the

Six-Party Talks, avoidance of escalating tensions and commitment to resolution through dialogue. In other words, carrying out sanctions and promoting resumption of talks are both part of the Security Council resolutions, which should not be implemented in a partial or selective way as one sees fit.

[...]

Last but certainly not least, I want to reiterate China’s firm opposition to the US deployment of THAAD anti-missile system in the ROK. Such a move seriously undermines the strategic security of China and other countries in the region, and damages the trust and cooperation among the parties on the Peninsula issue. It is neither helpful for achieving denuclearization nor conducive to long-term stability on the Peninsula. China once again urges the relevant parties to immediately stop the deployment process. [...]67

IV.O.iv. Work of the International Atomic Energy Agency

71. On 10 November 2017, a Chinese representative made a statement at the 72nd Session of the UNGA on agenda item “Report of the International Atomic Energy Agency”. He said,

[... ] China hopes that the Agency would focus on the following aspects in its future work:

First, to enhance the universality, effectiveness and fairness of its safeguards system. [...] The Agency should continue to enhance the universality and effectiveness of its safeguards system on the basis of ensuring impartiality and objectiveness and conducting full consultation with member states. We hope that the IAEA Secretariat will continue its dialogue and communication with member states on the implementation of safeguards at the state level.

Second, to promote the application of nuclear energy and nuclear technology, and increase assistance to the developing countries. China encourages the Agency to advance and coordinate the nuclear technical exchanges and cooperation by increasing its investment of resources and taking full account of the demand of the developing countries, in order to help member states achieve the sustainable development goals and share the benefits of peaceful uses of nuclear energy.

Third, to play the core role in strengthening the global nuclear safety and nuclear security. China supports the Agency to continue promoting the implementation of its Nuclear Safety Standards and Nuclear Security Guidelines, strengthening peer review service, facilitating the capacity building of member states, so as to increase the international nuclear safety and nuclear security level. [...]

Fourth, to uphold an impartial and objective stance and continue to help address regional hot-spot nuclear issues. China appreciates the efforts made by the Agency in facilitating the implementation of JCPOA, and supports the fulfilment of its monitoring and verification mandate. China also supports the Agency to play its due role of monitoring the DPRK’s nuclear activities according to its mandate.68

IV.O.v. The Biological Weapons Convention (BWC)

72. On 8 December 2017, a Chinese representative made a statement at the 2017 Meeting of States Parties to the BWC. He said,

As the first international treaty banning an entire category of weapons of mass destruction, the convention, since its entry into force, has been playing an indispensable role in eliminating the threat of biological weapons, non proliferation of biological weapons, enhancing peaceful use of biotechnology and related cooperation and safeguarding global biosecurity. […] China has always been of the view that negotiating and agreeing on a protocol which includes a verification mechanism and is legally binding for the purpose of comprehensively strengthening the Convention, is the best way of enhancing the effectiveness of the Convention. […]

At the 8th RevCon, China made 2 proposals under the framework of the Convention, namely “Model Code of Conduct for Bio-scientists” and “Non-Proliferation Export Control and International Cooperation Regime”. They were welcomed and supported by many countries. In our view, the code of conduct will enhance bio-security awareness of research personnel and prevent the misuse and misapplication of bio-science and technology, in order to address the challenges brought by rapid development of bio-science and technology. The Export Control and international cooperation regime will fill the development gap between the south and the north while addressing both objectives of non-proliferation and international cooperation and striking a balance between rights and obligations. We look forward to promote these 2 initiatives with all parties during the ISP towards an enhanced effectiveness of the Convention. […]

China has strictly followed the Convention’s provisions and implemented its obligations. Deeply involved in the Convention’s process, China has always submitted CBM documents on time. Following its overall national security vision, while improving its strategic design of biosecurity, China continues to enhance its mechanisms and capacity building, regulate efficiently biosafety, raise

68 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1509697.htm).
IV.O. Chemical Weapons Convention

73. On 16 October 2017, a Chinese representative made a statement at the Thematic Discussion on Other Weapons of Mass Destruction at the First Committee meeting of the 72nd Session of the UNGA. With regard to chemical weapons, he said,

In the past year, China continued to earnestly implement the CWC, and played an important role in promoting the universality and effectiveness of the Convention. The Chinese National Authority responsible for compliance held a commemorative event to celebrate the 20th Anniversary of the CWC, recalling the achievements, and outlining for the future work. Meanwhile, China attached great importance to the publicity of the Convention, and further raised the awareness of the business community and the general public for the implementation of the Convention. China has timely and accurately submitted declarations of all categories to OPCW, and received more than 480 on site inspections up to date. China has also actively promoted international cooperation, inter alia, by co-hosting training courses with OPCW, to assist other States Parties to improve their capabilities for implementing the Convention.

[...]

Even to this day, large quantities of chemical weapons abandoned by Japan in China are still posing grave threat and harm to the lives and properties of the people and the ecological and environmental safety in China. Japanese ACWs have been discovered on the territory of China at over 90 locations in 18 provinces (municipalities, autonomous regions). The largest burial site of Japanese ACWs ever discovered is located at Harbaling, Jilin Province. It is estimated that over 330,000 items of Japanese ACWs are buried there. However, the number of Japanese ACW items recovered so far has stood at approximately 60,000, of which about 48,000 items had been destroyed. Japanese ACWs are much more harmful to people and the environment than chemical weapons stockpiles.

The destruction of Japanese ACWs bears on the realization of the core objective of the Convention, and remains a bounden international legal obligation.
for Japan. China and Japan jointly invited an Executive Council delegation from OPCW to visit Harbaling Japanese ACWs destruction facility in June this year, which helps relevant parties gain in-depth knowledge of the urgency of the destruction of Japanese ACWs and the perniciousness of Japanese ACWs. China regrets the fact that Japan failed to complete the destruction of its ACWs by the deadline provided by the Convention and urges Japan continue to scale up its input to destroy Japanese ACWs thoroughly and safely as soon as possible.

[...]

The issue of Syrian chemical weapons has continued for many years, which has become a major factor affecting peace and stability in Syria, the Middle East and even the whole world. China firmly opposes the use of chemical weapons for any purposes by any country, group or individual under any circumstances. China believes that comprehensive, objective and fair investigation into the issue of alleged use of CWs in Syria should be conducted by the OPCW and the relevant UN agencies, so as to reach a conclusion on the basis of solid evidence that can stand the test of time and be substantiated by facts. China calls upon the relevant parties to jointly promote the proper resolution of the issue of Syrian chemical weapons from the general perspective and in the spirit of solidarity and cooperation. 70

IV.O.vii. CCW, SALWs, Arms Trade Treaty and UN Register of Conventional Arms

74. On 20 October 2017, a Chinese representative made a statement at the Thematic Discussion on Conventional Weapons at the First Committee of the 72nd Session of the UNGA. He said,

The Convention on Certain Conventional Weapons (CCW) has played an indispensable part in addressing the humanitarian concerns caused by the abuse of conventional arms. As a High Contracting Party to the Convention and all its five Protocols, China supports the work of CCW consistently, and has faithfully implemented its obligations under the Convention and its protocols, and actively participated in the international communication and cooperation. Last year, China participated in the 5th CCW Review Conference in a constructive manner and made in-depth discussion with other countries on a series of issues within the CCW. China is ready to contribute positively to the proper solution of humanitarian issues caused by conventional weapons with all the parties concerned.

[ [...]

At present, the illicit transfers of Small Arms and Light Weapons have not been effectively addressed, which to a great extent contributes to the spread of

70 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1505679.htm).
terrorism and extremism and exacerbates volatile situations in regions concerned. To properly handle this issue, China is of the view that all countries should implement POA and ITI in good faith, enhance capacity building, and take forward the multilateral process of combating illicit trade of SALWs consistently. Efforts shall also be made in carrying out international cooperation actively to maintain international and regional stability. The Chinese government has always held a prudent and responsible attitude towards arms export including the export of SALWs, and conducted strict regulations on arms export according to its domestic laws and due international commitments.

China is in favor of taking necessary measures by the international community to regulate international arms trade and combat illicit transfers of conventional arms. China positively and constructively participated in the negotiation of the Arms Trade Treaty, and participated in the Conferences of State Parties as observer for three consecutive years. China will continue to contribute to establishing a just order for international arms trade and eradicating illicit arms transfers so as to maintain regional and international peace and stability.

China attaches importance to transparency in armaments and is committed to enhancing mutual trust with other countries. China places great emphasis on the work of UN Register of Conventional Arms, and submits an annual report to the UN Register of Conventional Arms in recent years. Last year, China actively participated in the work of GGE on the UN Register, and made several useful suggestions. China is ready to continue supporting the work of the UN Register, and make its efforts in enhancing the Register’s universality and effectiveness. China speaks positively of the work of the UN Report on Military Expenditures, and recognizes its positive role in enhancing mutual trust among countries as an important confidence building mechanism of the UN by actively participating in its expert meeting. China stands ready to enhance mutual trust among countries, and promotes international peace, security and stability.71

IV.O.viii. Mine action and explosive hazard threat mitigation
75. On 13 June 2017, a Chinese representative made a statement at the Security Council Briefing on Comprehensive Approach to Mine Action and Explosive Hazard Threat Mitigation. He said,

China has always paid great attention to the humanitarian concerns associated with landmines and actively supported international legal instruments, including the Geneva Convention and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW).

71 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1505677.htm).
China is a full member of CCW and its five annexed protocols. We faithfully fulfill our obligations under those instruments. For many years, China has maintained close exchanges and cooperation with the contracting parties of the Ottawa Convention and has participated as an observer in the Meetings of States parties and its review conferences.

China is actively committed to the international humanitarian demining assistance cause and has, to the best of its ability, provided assistance to the affected countries and victims. Since 1998, the Chinese Government has provided humanitarian assistance worth more than 90 million RMB to nearly 40 countries in Asia, Africa and Latin America in the forms of demining equipment, technology training as well as donations. It has trained nearly 500 professional demining technicians. In September 2015, Chinese President Mr. Xi Jinping announced at the Leaders’ Summit on Peacekeeping, during the seventieth session of the General Assembly, that China would in the next five years launch 10 demining assistance programs. At present China is actively honoring this commitment and implementing the related programs.  

IV.P. International criminal law

IV.P.i. Scope and application of universal jurisdiction

76. On 11 October 2017, a Chinese representative made a statement at the 72nd Session of the UNGA on universal jurisdiction. He said,

[...] Currently, there is a general recognition of the importance of eliminating impunity and achieving judicial justice. However, the international community is still far from reaching a consensus on the existence of general universal jurisdiction in international law, as well as its definition, scope, and conditions and procedures of application. Judging from the information provided concerning domestic legislations and judicial practices regarding the so called “universal jurisdiction”, countries have very different practices and various views upon opinio juris.

[...]

China wishes to reiterate that the purpose of our discussion of this item should be to ensure that countries take a cautious approach in defining “universal jurisdiction” to deter its abuse, and to strike a necessary balance between combating impunity and maintaining stability in international relations. China has taken note of the consolidated list on the scope of application of “universal jurisdiction” in the informal working paper of the Working Group, which envisaged 12 crimes put forward by various states. Other than acts of piracy, considerable differences still exist over whether or not universal jurisdiction exists in other situations, as well as over the scope and conditions of its

72 (www.china-un.org/eng/lhghyywj/smhwj/2017sklj/t1471063.htm).
application, and no relevant rules of customary international law have been formed yet. When examining the applicability of universal jurisdiction to the crimes on the list, attention should be given to the distinction between universal jurisdiction and the norm of aut dedere aut judicare envisaged in the international treaties on combating serious crimes, and between universal jurisdiction and the jurisdiction exercised by international judicial bodies according to specific treaties.

[…]

In any case, when a country establishes and exercises jurisdiction, it should strictly adhere to the purposes and principles of the UN Charter, uphold such basic principles of international law as sovereign equality and non-interference in internal affairs of other countries, avoid improper extraterritorial jurisdiction, and refrain from infringing upon the immunity ratione personae and ratione materiae enjoyed by foreign States, state officials and diplomatic and consular personnel.

[…]

In view of the great divergence of views among countries concerning the scope and application of the principle of universal jurisdiction, and the difficulty in reaching a consensus or producing any document of a guiding nature in the near future, China suggests that our Committee consider whether it is necessary to continue its consideration of this item.73

IV.P.ii. Immunity of State officials from foreign criminal jurisdiction

77. On 27 October 2017, a Chinese representative made a statement at the 72nd Session of the UNGA on Agenda Item 81: Report of the International Law Commission on the work of its 69th session. With regard to immunity of State officials from foreign criminal jurisdiction, he said,

With respect to “Immunity of State officials from foreign criminal jurisdiction”, the Chinese delegation thanks the Commission and the Special Rapporteur for their efforts. At this year’s session, the Commission adopted by vote draft article 7, which identifies six crimes under international law as exceptions to the immunity ratione materiae of State officials, namely crime of genocide, crimes against humanity, war crimes, crime of apartheid, torture and enforced disappearance. In our opinion, this draft article is very problematic, and we wish to make the following comments.

First of all, the hasty adoption of the draft article without thorough discussion seems inappropriate. We have noted that before the deliberation on this issue could run its course, the Commission rushed to a vote and adopted the

draft article with almost one third of the members voting against it. We suggest that the Commission proceed with caution and prudence, and continue with in-depth exchange of views on the issue of exceptions to seek the broadest possible consensus. The Commission should avoid tabling a draft article on which there exists extensive controversy since it may undermine the authority of any potential outcome in this regard.

Secondly, the six exceptions to immunity provided for in this draft article are not grounded in general international practice. When arguing for the exceptions to immunity, the fifth report of the Special Rapporteur and the relevant commentaries of the Commission cite very few domestic cases, and the only examples that have been examined are mostly from European and American jurisdictions. The practice of Asian States is not fully taken into consideration.

Thirdly, the methodology used in the study is marred by tendentious selectiveness. For instance, many of the examples cited in the fifth report and commentaries in support of the establishment of exceptions to immunity are related to State immunity legislation or decisions of civil proceedings, and are irrelevant to the immunity of State officials from foreign criminal jurisdiction. Furthermore, there is a strong tendency toward selective invocation of international practice and judicial decisions, giving lopsided weight to a handful of cases in which immunity was denied while ignoring much more numerous instances of State practice and judicial decisions that upheld immunity. In addition, the references to certain judicial decisions selectively highlight the minority opinions against immunity, whereas the majority opinions in favour of immunity are not given due attention.

In light of the above, China does not believe that the provisions of draft article 7 qualify as codification or progressive development of customary international law. The unfair denial of immunity of State officials will seriously undermine the principle of sovereign equality and very likely become a tool for politically motivated litigations, which will result in grave damage to the stability of international relations. The Commission must fully recognize the seriousness of this issue and its potential harm, focus on comprehensively analyzing existing international practice and proceed in a cautious and prudent manner.74

IV.P.iii. Crimes against humanity

78. On 23 October 2017, a Chinese representative made a statement on the topic of crimes against humanity at the 72nd Session of the UNGA on Agenda Item 81: Report of the International Law Commission on the work of its 69th session. He said,

[...] In terms of the overall direction of the topic, China endorses the importance accorded to the prevention and punishment of crimes against humanity.

We would like to make the following comments on the draft articles as contained in the report.

First, many provisions of the draft articles lack empirical analysis. They derive mostly from analogous provisions of existing international conventions for combating international crimes, and rely primarily on the practice of international criminal justice organs without a comprehensive review of the existing practice and opinio juris of States. For instance, provisions relating to the liability of legal persons, extradition and mutual legal assistance, as well as protection of the rights and interests of victims and witnesses are not backed by State practice.

Secondly, when explaining the draft preambular paragraph 3, which states that “the prohibition of crimes against humanity is a peremptory norm of general international law (jus cogens),” the commentary cites as evidence the language contained in the commentary on the Commission’s draft articles on responsibility of States for internationally wrongful acts and judgments of the ICJ, the ICTY, the Inter-American Court of Human Rights and the European Court of Human Rights. However, those references and judgments are mere general comments without detailed analysis of relevant practice and opinio juris of States. As such, they can hardly prove that the prohibition of crimes against humanity has satisfied the requirement for jus cogens set forth in Article 53 of the Vienna Convention on the Law of Treaties, namely “a norm accepted and recognized by the international community of States as a whole”. We are of the view that since “peremptory norms of general international law (jus cogens)” is an ongoing topic of the Commission, and the practice and opinio juris of States concerning such important issues as the identification and effects of jus cogens remain unclear in some aspects, the need for the draft articles to address the issue of jus cogens character warrants further studies.

Thirdly, with respect to the definition of crimes against humanity as contained in draft article 2, and the detachment of the traditional element of “committed in time of armed conflict” from the said crimes in draft article 3, we reiterate our reservation expressed at previous sessions.

Fourthly, with respect to paragraph 8 of draft article 6 concerning the liability of legal persons, we suggest further discussion as to the necessity and reasonableness of this provision. Paragraph 8 draws on the provisions on the liability of legal persons contained in the Convention against Corruption, the Convention against Transnational Organized Crimes, the Optional Protocol to the CRC that prohibits the sale of children and the International Convention for the Suppression of the Financing of Terrorism. While in reality, there are indeed cases in which the afore-mentioned crimes are committed by legal persons, it should be highlighted that there are major differences between those acts and crimes against humanity in terms of nature and elements. The attached commentary falls short of being convincing about the likelihood of actual
participation of legal persons in the proscribed acts, and the necessity for criminalization under domestic law. This issue is better left to the autonomous decision of States.75

IV.P.iv. Crime of aggression

79. On 7 December 2017, a representative of the Chinese Observer Delegation made a statement at the General Debate in the 16th Session of the Assembly of States Parties to the Rome Statute of the International Criminal Court. With regard to the crime of aggression, he said,

 […] The Assembly of States Parties should address the issue of the Amendment on the Crime of Aggression cautiously. For the moment, although the objective conditions for States Parties to decide on the exercise of jurisdiction over the crime of aggression have been met, the controversies triggered by the Amendment have not been settled. On the one hand, it involves the relationship between the Court and the Security Council. The exclusive power of the Security Council to determine the existence of the act of aggression is a cornerstone of the collective security system, and shall not be diminished except with an amendment to the UN Charter. The Amendment on the Crime of Aggression, which allows the Prosecutor to investigate crimes of aggression without a determination by the Security Council on the existence of the act of aggression, will practically undermine the integrity and authority of the UN Charter as the basis of international legal order. The Court and the Security Council share responsibilities and complement each other in preventing and punishing grave crimes which threaten international peace and security. We look forward to forging a partnership featuring win-win cooperation between the Court and the Security Council based on mutual respect, which is in the interest of both sides.

On the other hand, with respect to the jurisdiction of the Court, quite a few States, including China, are of the view that, for a State that has not accepted the Amendment or is not a Party to the Rome Statute, the Court should not exercise jurisdiction over acts of aggression committed by that State’s nationals or on its territory. That is requisite for international law as “State-based consent law”, and is in line with rules of international treaty law and the intention of negotiating States of the Statute and the Amendment. China has noticed that, in accordance with the resolution adopted in the last session of the Assembly of States Parties, the facilitation aiming at clarifying certain controversial issues, such as the scope of jurisdiction on the crime of aggression, was held in New York. Regrettably, in contrast to the openness and transparency of the

75 (www.china-un.org/eng/chinaandun/legalaffairs/sixthcommittee1/t1506786.htm).
negotiation of the Kampala Amendment, non-States Parties were excluded from the facilitation. China believes that the “activation” of the jurisdiction over the crime of aggression should be based on broad consensus. Haste does not bring success. The premature activation of the Court’s exercise of jurisdiction over the crime of aggression will not be beneficial for the universality of the Statute or the authority of the Court.\textsuperscript{76}


80. On 19 June 2017, a Chinese representative made a statement at the GA High-level Debate on Transnational Organized Crime Panel One: 15 Years of Implementation of the Convention. He said,

The Chinese government attaches great importance to fighting transnational organized crime. China fully participated in the negotiation process of the Convention, playing a constructive role for its successful adoption. The Chinese government is committed to comprehensively and earnestly fulfilling its obligations under the Convention and has amended and improved its relevant domestic legislations in line with the provisions of the Convention. In order to combat violent terrorist crime more forcefully, China promulgated the Ninth Amendment to the Criminal law in August, 2015, which, in response to emerging trends and new features of violent terrorist crime, criminalizes preparatory activities for terrorist purposes such as planning, supplying tools, communicating with overseas terrorist organizations or personnel, financing terrorist training, etc.

China actively carries out international cooperation and strives to build a cooperation network against transnational organized crime. Since the Convention came into force, China has, in accordance with the Convention, handled dozens of mutual legal assistance requests, signed 46 extradition treaties and 59 treaties on mutual legal assistance in criminal matters with foreign authorities and actively expanded bilateral judicial and law enforcement cooperation with relevant countries.\textsuperscript{77}

\textit{IV.P.vi. Countering terrorism}

81. On 28 September 2017, a Chinese representative made a statement at the Security Council briefing on threats to international peace and security caused by terrorist acts. He said,

Terrorism is the common enemy of all humankind. The international community must use uniform standards. We must resolutely fight terrorists no matter

\textsuperscript{76} (https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-CHI.pdf).

\textsuperscript{77} (www.china-un.org/eng/lhggywjsmhwj/2017slkj/t1471783.htm).
where they are, what flag they fly, which country they attack or whatever means they employ. In countering terrorism, the sovereignty of the countries concerned must be respected, the leadership role of the United Nations and the Security Council must be given full play and the purposes and principles of the Charter of the United Nations must be observed.

[...]

China supports the enhanced cooperation among the United Nations Office of Counter-Terrorism, the CTC, CTED and the Committees established pursuant to resolutions 1267 (1999) and 1540 (2001), according to the respective mandates of Security Council and General Assembly relating to counter-terrorism, to assist Member States in the full implementation of the relevant counter-terrorism resolutions of the Security Council and the United Nations Global Counter-Terrorism Strategy. Along with the broader membership of the international community, China will continue to strictly implement the relevant Council resolutions and proactively promote international counter-terrorism cooperation so as to maintain international peace and security.78

IV.P.vii. Countering foreign terrorist fighters

82. On 28 November 2017, a Chinese representative made a statement at the Security Council debate on countering foreign terrorist fighters. He said,

[...]

First, we shall take effective measures to stop the flow of foreign terrorist fighters. Their outward and return journeys severely jeopardize the security and stability of countries of origin, transit and destination. Member States, especially countries adjacent to conflict zones, should strengthen border controls and law enforcement cooperation and take specific measures to prevent the flow of foreign terrorist fighters. The United Nations counter-terrorism bodies and the relevant international organizations should play their designated role by establishing databases and fully information-exchange platforms on the flow of foreign terrorist fighters, sharing intelligence, helping to block the flow of foreign terrorist fighters and assisting Member States in capacity-building based on respect for their sovereignty.

Secondly, we shall enhance efforts to combat terrorist activities conducted through the Internet. [...]. The international community should make blocking the use of social media for the propagation of extremist ideologies a top priority, strengthen Internet oversight and prevent terrorist organizations from using it for their expansion and financing.

78 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1500306.htm).
Thirdly, we shall respect the diversity of civilizations and eliminate the root causes of the phenomenon of foreign terrorist fighters: wars, conflicts, ethnic hatred, poverty and backwardness. […]\(^7^9\)

IV.Q. International environmental law

IV.Q.i. Climate change and the Paris Agreement

83. On 23 March 2017, the President of the UNGA convened a High-Level Event entitled “Climate Change and the Sustainable Development Agenda” in collaboration with the Secretariat of the United Nations Framework Convention on Climate Change. A Chinese representative delivered a speech at the meeting and said, in part:

At the beginning of this year, Chinese President Xi Jinping attended the World Economic Forum where he pointed out that the Paris Agreement is a hard-won achievement which is in keeping with the underlying trend of global development. All signatories should stick to it instead of walking away from it as this is a responsibility we must assume for future generations. This is a powerful signal from the Chinese leader to the international community that China will fully and thoroughly implement the Paris Agreement and fulfill its international obligations. We will honor our commitments and take action to produce results. We will work together with the rest of the international community to implement the Paris Agreement, turn the challenge of climate change into the opportunity of transforming to green and low-carbon development so as to realize sustainable development. […]\(^7^9\)

China remains steadfast in its determination to advance global climate governance. China will continue to work with all parties concerned to push for positive progress of the relevant multilateral negotiations. We are preparing “China’s proposals” on issues relating to the implementation of the Paris Agreement such as transparency and global stock taking with a view to finding a “landing point” and a “common denominator” that are within the comfort zone of all sides, reflecting the principle of “common but differentiated responsibilities”, ensuring climate equity, striking a balance between action and support and promoting sharing of best practices. […]\(^7^9\)

China remains steadfast in its sincere wish to engage in pragmatic cooperation in the area of climate change. China is willing to continue to exchange with parties concerned best practices in green and low-carbon development and engage in pragmatic cooperation in such areas as energy efficiency, renewable energy, low-carbon cities and carbon market. China will continue to energetically
advance South-South cooperation on climate change. Our South-South Cooperation Fund on Climate Change has already been launched and is currently working in the developing countries concerned to establish 10 low-carbon model areas and implement 100 projects of climate change mitigation and adaptation. We are also offering training in the area of climate change to 1000 trainees. Our South-South cooperation team visited urban and rural areas of developing countries in Asia, Africa, Latin America and some small island developing countries to acquire an in-depth understanding of their needs and we are now conducting cooperation with 27 countries to help them improve their capacities in adaptation and mitigation, management and financing. We are willing to work together with relevant international institutions to advance South-South cooperation on climate change.80

IV.Q.ii. Protection of the atmosphere

84. On 27 October 2017, a Chinese representative made a statement at the 72nd Session of the UNGA on Agenda Item 81: Report of the International Law Commission on the work of its 69th session. On the topic of “protection of the atmosphere”, he said,

[…] The Commission adopted at this year’s session draft guideline 9 “Interrelationship among relevant rules”, the purpose of which is to ensure the harmonization and systemic integration of the rules of international law relating to the protection of the atmosphere with other relevant rules of international law, including, inter alia, those of international trade and investment law, the law of the sea and international human rights law, in accordance with the rules set forth in the Vienna Convention on the Law of Treaties regarding the application and interpretation of treaties. We are of the view, however, that in order for this draft guideline to apply, there would need to be existing rules of international law on the protection of the atmosphere, and there is no generally applicable international treaty in this field at present. Therefore, the afore-mentioned conclusion lacks the backing of international practice. While the draft guideline may have some utility for theoretical purposes, it does not offer much practical value. The Commission may wish to further consider the necessity to retain this provision.81

IV.R. International institutional law

IV.R.i. The UN Charter

85. On 21 February 2017, a Chinese representative made a statement at the 2017 Session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. He said,
The Charter of the United Nations establishes the basic principles of international law and the basic norms of international relations, whereby an international order of multilateralism with the United Nations at the core was created. China has always been a staunch defender of the purposes and principles of the Charter.

The Special Committee is a standing forum for deliberations on the Charter and a strengthened role for the United Nations within the framework of the United Nations. It has produced useful outcomes in the past. China attaches great importance to the work of the Special Committee, and appreciates the efforts of member states in the spirit of constructive cooperation to advance the work of the Special Committee by consensus at its 2016 session. China is ready to participate actively in the work of the Special Committee and promote the effective performance of its functions in order to achieve outcomes that serve the common good of the international community.82

IV.R.ii. Effectiveness of United Nations Sanctions

86. On 3 August 2017, a Chinese representative made a statement at the Security Council Briefing on Enhancing the Effectiveness of United Nations Sanctions. He said,

Under the provisions of the Charter of the United Nations, sanctions measures, as one of the peaceful means of conflict resolution, should play a positive role in maintaining international peace and security. […] We must pay particular attention to the following aspects.

First, the use of sanctions by the Security Council must be in full keeping with the provisions of the United Nations Charter. There must be prudence and responsibility when employing sanctions. As a matter of priority, the Security Council should use non-coercive means, such as negotiations, mediation and good offices to respond to the threats to international peace and security. The imposition of sanctions should be predicated upon the exhaustion of non-coercive means. Sanctions are peaceful means and should therefore be implemented in a peaceful manner, rather than being imposed through the use of force.

Secondly, the Security Council’s decision to impose sanctions must be part of an overall political settlement package. Sanctions are not the end in themselves. Sanctions alone cannot resolve issues. The fundamental way out is through the use of political and diplomatic means, such as dialogue and negotiation. In quite a few cases, the weak link in the solution lies not with the level of sanctions implementation, but rather with the lack of progress in the political

82 (www.china-un.org/eng/chinaandun/t1441533.htm).
track. The Security Council’s decision on the overall political package should be advanced holistically. The implementation of Security Council resolutions should not be selective. The use of sanctions measures by the Security Council should serve the overall purpose of the political process. It should be conducive to the mediation and good offices efforts by the relevant countries, regional organizations and the United Nations, thereby truly helping to ease the situation on the ground and reach solutions.

Thirdly, the Security Council should enhance the relevance of sanctions in order to avoid negative consequences. The Council should determinedly focus on the key aspects of issues at hand and be prudent when considering the measures and scope of sanctions. Sanctions should serve the purpose of conflict resolution. To the greatest extent possible, sanctions measures should have a low negative impact on the general population and third countries. In addition, sanctions measures should not affect the normal legal trade and economic relations of the sanctioned countries nor people’s livelihoods and the humanitarian situation in the countries concerned. As the situation on the ground and the resolution process evolve, the Security Council should conduct timely evaluations and assessments of the sanctions measures and, as needed, adjust, suspend and, ultimately, terminate them.

IV.R.iii. UN peacekeeping operations

87. On 20 September 2017, Chinese foreign minister Mr. WANG Yi made a statement at the Security Council Open Debate on UN Peacekeeping Operations. He said,

China has been a staunch supporter of and an active participant in UN peacekeeping operations. It is a major troop contributor and the second largest financial contributor. We have dispatched a total of around 35,000 troops and 2,700 police to peacekeeping operations.

At the UN Peacekeeping Summit in 2015, President Xi Jinping put forth new peacekeeping initiatives and announced a host of major measures China would take to support peacekeeping operations. We always honor our promises.

China has formed an 8,000-strong standby force and a permanent police squad, and provided training to over 800 peacekeepers from the UN and relevant countries. We have deployed our first helicopter squad for UN peacekeeping operations in Africa. China is making good on its pledged free military aid of US$ 100 million to the AU, and has identified the support for peacekeeping operations as a major area for the use of the China-UN Peace and Development Fund.

83 (www.china-un.org/eng/lhghyywj/smhwj/2017slkj/t1484652.htm).
Peace is hard to make and even harder to keep. As a permanent member of the Security Council and the largest developing country, China knows full well the value of peace. We will continue to work shoulder to shoulder with other peace-loving nations to give concrete support to UN peacekeeping operations and in particular to African countries. Together, we will make our planet a place of durable peace.  

IV.R.iv. International Criminal Court and the Rome Statute

88. On 7 December 2017, a representative of the Chinese Observer Delegation made a statement at the General Debate in the 16th Session of the Assembly of States Parties to the Rome Statute of the International Criminal Court. With regard to the ICC and the Rome Statute, he said,

First, the Court should take a balanced approach in advancing its values and policies. It is necessary for the Court to strike a balance between its two core values, namely, peace and justice. Justice should not be pursued at the expense of peace and the reconciliation process in conflict areas. At the same time, as a product of the coordination of various legal systems, the Rome Statute is an embodiment of legal pluralism. By taking into full account the approaches of various legal systems in interpreting and applying the Rome Statute, it would be conducive for the Court to ensure fair trial, and obtain broader support and recognition.

Second, the Court should adhere to uniform and consistent application of the Rome Statute. The confidence of States Parties in the Court depends on the predictability and certainty in the application of the Rome Statute. It is our common expectation that the Court interprets and applies the Rome Statute in an objective and unified manner. This is the essence of the rule of law and any practice of “double standard” and “selective justice” is a contravention to it. All States Parties shall be equal before the Rome Statute. The Court is required to apply the Rome Statute equally to all States and all case parties in dealing with both situations and cases, including preliminary examination, investigation, prosecution, trial and reparation. It is also essential for the Court to interpret and apply the Rome Statute and other relevant rules of international law integrally in all its Chambers and all cases based on consistent jurisprudence of international criminal justice.

Third, the Court should act in accordance with law in defining the relationship between the Rome Statute and rules of general international law. The Rome Statute shows respect to the application of rules of general international law. First of all, it regards general international law as an important source of

applicable law of the Court. For instance, Article 10 of the Statute provides, “[n]othing in this part shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute”; Article 21 stipulates, “[t]he Court shall apply, where appropriate, applicable treaties and the principles and rules of international law”. Secondly, on the relationship between the obligations under the Rome Statute and those under general international law, the Statute emphasizes that general international law shall not be violated. For instance, Article 98 provides that the Court may not proceed with a request of cooperation of a State which would require the requested State to act in contrary to its obligations vis-a-vis a third state under international law or a particular treaty. It is important for the Court to strictly follow the rules set out in the Rome Statute in handling the relationship between the Rome Statute and general international law.

Regrettably, this is not the case in the past judicial practice of the Court. For instance, the Court seems to have put one-sided emphasis on the “irrelevance of official capacity” in Article 27, but ignored or erroneously interpreted and applied the rules of customary international law on the immunity of heads of State which is actually confirmed in Article 98 of the Statute. This has triggered extensive controversy. We noticed that the Court pointed out in a decision issued in July this year that no rules of customary international law could be identified to exclude the immunity of heads of State. It remains to be seen whether this is a correction of the Cour’s previous decisions which held that the Rome Statute precludes the rules of general international law on the immunity of heads of State. In this respect, China believes that the Assembly can consider designating it as an agenda item for discussion with a view to achieving consensus.85

IV.S. Peaceful settlement of international disputes

89. On 10 October 2017, a Chinese representative made a statement at the 72nd Session of the UNGA on Agenda Item 83: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. He said,

[…] China consistently advocates peaceful settlement of disputes, and is of the view that international disputes should be properly settled through negotiation, dialogue and consultation between the parties. At the same time, we maintain that the legitimate right of all countries to choose freely peaceful means of dispute settlement must be fully respected, and that the principle of States’ consent must be strictly complied with. The Chinese delegation has noted that at the

Special Committee’s 2017 annual session, it was agreed that a thematic debate will be held every year under this agenda item to discuss peaceful means of dispute settlement provided for in Chapter VI of the UN Charter, in particular Article 33. We […] remain committed to actively participating in the Committee’s discussion of this subject.86

V. Judicial Decisions

V.A. Guangzhou Docod Precision Electromechanical Co., Ltd. v. The British Consulate-General Guangzhou, civil ruling, Guangzhou Intellectual Property Court, 2 June 2017 — Application of the Regulations of the People’s Republic of China Concerning Consular Privileges and Immunities

90. The appellant, Guangzhou Docod Precision Electromechanical Co., Ltd. (Docod), filed an appeal case to the Guangzhou Intellectual Property Court against a ruling by the People’s Court of Yuexiu District, Guangzhou Municipality. In the case of first instance, Docod sued Domino Label Technology Company, Ltd. (Domino China) and Domino Guangzhou Branch for commercial defamation. In a dispute that had happened in 2011, Domino Guangzhou Branch filed a complaint to the police department in Guangzhou and claimed Docod violated Domino’s intellectual property in production and marketing. As a result of Domino’s complaint, some members of the executive team of Docod were charged for producing counterfeit products but found not guilty by a local court in 2014. According to Docod, officers of the British Consulate-General Guangzhou met with Chinese officials of various departments and pressed the case for Domino China which is a wholly owned subsidiary of Domino Printing UK. Docod claimed that the British Consulate-General Guangzhou should be liable for assisting Domino in its act of commercial defamation against Docod and requested the court of first instance to register the British Consulate-General as a defendant. The court of first instance ruled that the case related to a dispute of commercial defamation and the subject matter was within the scope of civil litigation for tort liability due to unfair competition. The court of first instance cited consular immunity from judicial jurisdiction, in accordance with Article 14 of the Regulations of the People’s Republic of China Concerning Consular Privileges and Immunities,87 and rejected Docod’s request to sue the British

87 Article 14 of the Regulations of the People’s Republic of China Concerning Consular Privileges and Immunities provides:

Consular officers and members of the administrative and technical staff of the consular post shall enjoy immunity from judicial and administrative jurisdiction in respect of acts performed in the exercise of their functions. Immunity from jurisdiction of consular officers in respect of acts other than those performed in the exercise of their functions shall be accorded in accordance with the bilateral treaties and
Consulate-General Guangzhou. Guangzhou Intellectual Property Court reviewed the ruling of first instance and noted that the British Consulate-General is a consular post established by a sovereign State as part of its diplomatic agency in China. Its functions are performed by its consular officers and members of the administrative and technical staff of the consular post. The Court said that consular officers and members of the administrative and technical staff of the consular post shall enjoy immunity from judicial and administrative jurisdiction in respect of acts performed in the exercise of their functions, in accordance with relevant provisions of the Regulations of the People’s Republic of China Concerning Consular Privileges and Immunities. The present case was a civil litigation for tort liability due to unfair competition and therefore fell outside the scope of exemption to immunity from judicial jurisdiction as specified in Article 14 of the Regulations. The Court then rejected the appellant’s request to sue the British Consulate-General Guangzhou in the present case.88

V.B. DONG Qin v. Ioannis Plexousakis, civil ruling on the execution of a foreign-related arbitration award, No. 3 Intermediate People’s Court of Beijing Municipality, 27 June 2017 — Diplomatic immunity from jurisdiction and execution of judgment

91. The applicant, Ms. DONG Qin, submitted an application for execution of an arbitration award which was made by the China International Economic and Trade Arbitration Commission in October 2016 and already became effective at the time of the application. The Court noted that it is required by the law that certain conditions be met before a people’s court can execute a legally effective arbitration award. In the present case, the Court found that the person subjected to execution was a diplomatic agent in China. The Court cited Article 14 and 15 of the Regulations of the People’s Republic of China Concerning Diplomatic Privileges and Immunities89 and said that agreements between China and other countries concerned or on the principle of reciprocity. Immunity from judicial jurisdiction enjoyed by consular officers and members of the administrative or technical staff of the consular post shall not apply to any of the following civil actions:

1. an action arising out of a contract not concluded expressly as an agent of the sending State;
2. an action relating to private immovable property situated in the territory of China, unless they hold it as an agent of the sending State for the purposes of the consular post.
3. an action relating to succession in which he is involved as a private person; or
4. an action for damages arising from an accident in China caused by a vehicle, vessel or aircraft.

88 Ruling in Chinese, excerpted and translated by the author, (wenshu.court.gov.cn/content/content?DocID=d5cbf495-068b-4e00-bc73-a7f200a7e825).

89 The Regulations of the Peoples Republic of China Concerning Diplomatic Privileges and Immunities provides:
Mr. Plexousakis as a diplomatic agent enjoyed immunity from criminal, civil and administrative jurisdiction. He also enjoyed immunity from execution, as the law provides that waiver of immunity from civil or administrative jurisdiction shall not imply waiver of immunity in respect of the execution of the judgment, for which a separate and explicit waiver shall be necessary. Because the sending government of Mr. Plexousakis did not expressly waive his immunity from execution, the Court rejected the applicant’s request for execution as it lacked jurisdiction.90

V.C. Laizhou City Yongheng Research Institute of Chinese Scholartree v. GE Yanjun, civil ruling (retrial review and trial supervision), Supreme People’s Court, 26 December 2017—Consistent interpretation between Chinese domestic laws and treaties

92. The applicant for retrial, Laizhou City Yongheng Research Institute of Chinese Scholartree (Yongheng) submitted to the Supreme People’s Court of China an application for retrial of a civil litigation case in which Yongheng had sued Mr. GE Yanjun for infringing Yongheng’s exclusive right to a protected new variety of plant called Shuangji Mihua (two-crops Chinese scholartree or *sophora japonica* linn. in Latin). The courts of first and second instance ruled against Yongheng and found that Mr. GE Yanjun did not infringe upon Yongheng’s exclusive right to Shuangji Mihua by selling or offering to sell Shuangji Mihua. Yongheng appealed to the Supreme People’s Court and argued that the courts of first and second instances had erred in fact finding and in the allocation of burden of proof during the trials. The Supreme Court held that Mr. GE Yanjun did not infringe upon Yongheng’s exclusive right to Shuangji Mihua by selling or offering to sell Shuangji Mihua. Yongheng appealed to the Supreme People’s Court and argued that the courts of first and second instances had erred in fact finding and in the allocation of burden of proof during the trials. The Supreme Court held that the courts of first and second instances had erred in fact finding and in the allocation of burden of proof during the trials.

Article 14. A diplomatic agent shall enjoy immunity from criminal jurisdiction. He shall also enjoy immunity from civil and administrative jurisdiction, except in the case of:

1. an action relating to succession in which he is involved as a private person;
2. an action relating to any professional or commercial activity conducted by him in China outside his official functions in violation of paragraph 3 of Article 25. No measures of execution shall be taken in respect of a diplomatic agent except in cases coming under the preceding paragraphs of this Article, where the measures of execution do not constitute any violations of his person and residence. A diplomatic agent is not obliged to give evidence as a witness.

Article 15. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under Article 20 may be waived through explicit expression by the Government of the sending State.

The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under Article 20 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the claim. Waiver of immunity from civil or administrative jurisdiction shall not imply waiver of immunity in respect of the execution of the judgment, for which a separate and explicit waiver shall be necessary.

90 Ruling in Chinese, excerpted and translated by the author, (openlaw.cn/judgement/43debc89ecd5400d96a814f2438fbbd9).
People’s Court reviewed the evidence submitted to the courts by Yongheng and found that the evidence, such as a sales contract (unsigned by the buyer), audio recording, and video footage, was preponderant to indicate that Mr. GE had actually sold or offered to sell Shuangji Mihua for a long period time. The Supreme People’s Court noted that Yongheng’s exclusive right to Shuangji Mihua was protected in accordance with Article 6 of the Regulation of the People’s Republic of China on Protection of New Varieties of Plants. Article 6 provides that no other entity or individual shall, without permission from the owner of the variety rights, shall produce or sale for commercial purposes the propagation material of the protected variety. The Court interpreted that the term “sale” in Article 6 of the Regulation should be understood to include “the offering for sale”, as defined in Article 5 of the International Convention for the Protection of New Varieties of Plants (1978) to which China had acceded. The Court said that this interpretation was made in according to the principle of consistency between Chinese domestic laws and international treaties (to which China is a party). The Supreme People’s Court then ruled that the court of second instance erred in fact finding that Mr. GE Yanjun did not sell Yongheng’s protected variety. The case was sent to the Higher People’s Court of Shanxi Province for retrial.

V.D. WANG Zhuo and CHEN Cuiying v. The Ministry of Foreign Affairs, administrative ruling, Higher People’s Court of Beijing Municipality, 17 April 2017—Diplomatic acts of State are outside the scope of cases admissible to the people’s courts

91 Article 6 of the Regulation of the People’s Republic of China on Protection of New Varieties of Plants provides that: “The entity which or the person who has accomplished the breeding has an exclusive right in their protected variety. Except otherwise provided in this Regulation, no other entity or individual shall, without permission from the owner of the variety rights (hereinafter referred to as the “variety rights owner”), shall produce or sale for commercial purposes the propagation material of the protected variety, or repeatedly use for commercial purposes the propagation material of the protected variety in the production of the propagation material of another variety.” (www.lawinfochina.com/Display.aspx?lib=law&Cgid=17006)

92 Article 5, paragraph (1) of the Convention provides that “(1) The effect of the right granted to the breeder is that his prior authorisation shall be required for
- the production for purposes of commercial marketing
- the offering for sale
- the marketing
of the reproductive or vegetative propagating material, as such, of the variety.” (www.ipr.gov.cn/zhuanti/law/conventions/upov/upov_1978.html).

93 Ruling in Chinese, excerpted and translated by the author, (openlaw.cn/judgement/7febf31592eb4673afeeb2d97c2efdf1).
93. The two appellants, Mr. WANG Zhuo and Ms. CHEN Cuiying, filed an administrative lawsuit against the Ministry of Foreign Affairs of China and claimed that the FM failed to fulfill its consular duty and ignored the couple’s legal rights and interests in handling the death of their son, Mr. CHEN Si who had been murdered in Canada. Among other things, the couple requested that the Court order the FM to fulfill its consular duty, assist them through diplomatic channels to go to Canada, help them to obtain living allowance from the Canadian authorities when they are in Canada to handle their son’s funeral, assist them to retrieve their son’s bank savings and personal belongings, etc., and compensate for their emotional duress due to the dereliction of duty by the FM. The court of first instance noted that certain conditions must be met before a people’s court admits a suit against a specific administrative act of an administrative organ or its personnel. In the present case, the court of first instance ruled that the claims against the FM belonged to diplomatic acts of State and therefore fell outside the scope of administrative cases admissible to the people’s courts in accordance with Article 13(1) of the Administrative Procedure Law of the People’s Republic of China. In the appeal, the two appellants argued that the court of first instance erred in refusing to docket their case as they sued the Ministry for the dereliction of consular duty rather than for a specific act of State. The Higher People’s Court of Beijing Municipality reviewed the appellants’ claims and found that they related to diplomatic acts of State. Their claims for compensation were also based on requests concerning certain acts of State. Therefore, the court of second instance ruled that the claims fell outside the scope of cases admissible to the people’s courts. The ruling of first instance that refused to place the case on the docket was upheld.

VI. Special document

VI.A. Constitution of the Communist Party of China (revised in 2017)

94. On 24 October 2017, the 19th National Congress of the Communist Party of China (CPC) adopted the revised Constitution of the CPC. In the General Program of the CPC Constitution, the following paragraphs are related to China’s practices in the areas of foreign policy, national unity, development, human rights and international law.

Ultimately, the fundamental reason for all of China’s achievements and progress since reform and opening up began is that the Party has forged a path, formed a

94 Article 13 of the Administrative Procedure Law of the People’s Republic of China provides that: “The people’s courts shall not accept suits brought by citizens, persons or other organizations against any of the following matters: (1) acts of the state in areas like national defence and foreign affairs; […]” (www.npc.gov.cn/npc/xinwen/2017-06/29/content_2024894.htm, translation provided by the author.)

95 Ruling in Chinese, excerpted and translated by the author, (wenshu.court.gov.cn/content/content?DocID=38955577-5f5b-4f11-933c-a7e70010e473).
theoretical system, established a system, and developed a culture for socialism with Chinese characteristics. […] All Party members must hold high the great banner of socialism with Chinese characteristics, have firm confidence in its path, theory, system, and culture, implement the Party’s basic theory, basic line, and basic policy, and strive to fulfill the three historic tasks of advancing modernization, achieving China’s reunification, and safeguarding world peace and promoting common development, achieve the two centenary goals, and realize the Chinese Dream of national rejuvenation.

[…] A continued commitment to reform and opening up is the path to a stronger China. Only through reform and opening up can we develop China, develop socialism, and develop Marxism. The Party must comprehensively deepen reform, improve and develop the system of socialism with Chinese characteristics, and modernize China’s system and capacity for governance. The Party must fundamentally reform the economic structure that constrains the development of the productive forces and uphold and improve the socialist market economy; and in congruence with this it must undertake political structural reform and reform in other fields. The Party must uphold the fundamental national policy of making China open to the world and embrace and learn from all achievements of human society. In carrying out reform and opening up, the Party should be boldly explorative and brave in breaking new ground; the Party should improve the scientific nature of reform-related decision making, pursue reform in a more systematic, holistic, and coordinated way, and pioneer new approaches through practice.

 […]

The Communist Party of China shall lead the people in building a harmonious socialist society. In accord with the overall demands of democracy and the rule of law, equity and justice, honesty and fraternity, vigor and vitality, stability and order, and harmony between humankind and nature, and in line with the principle of building together and sharing together such a society, the Party shall work to solve problems of the greatest, most immediate, and most practical concern to the people. In doing this, it shall focus on ensuring and improving living standards. It shall work to ensure the fruits of development are of greater and more equitable benefit to the people, help them gain an increasingly stronger sense of fulfillment, and strive to see that all people realize their potential, find their proper place in society, and live together in harmony. […] It shall strengthen comprehensive measures to maintain law and order, and work with firm resolve and in accordance with the law to combat criminal activities that endanger national security and national interests, or threaten social stability or economic development, and will bring criminals to justice, maintaining lasting social stability. The Party shall pursue a holistic approach to national security
and resolutely safeguard China’s sovereignty, security, and development interests.

The Communist Party of China shall lead the people in building a socialist ecological civilization. It shall strengthen the philosophy underlying ecological civilization that nature should be respected, adapted to, and protected; fully understand that lucid waters and lush mountains are invaluable assets; follow the fundamental national policy of conserving resources and protecting the environment; uphold the principle of prioritizing resource conservation and environmental protection and letting nature restore itself; and take a positive path to development that ensures increased production, higher living standards, and healthy ecosystems. The Party shall strive to build a resource-conserving, environmentally friendly society, implement the strictest possible environmental protection systems, and work to shape spatial layouts, industrial structures, modes of production, and ways of life that are conducive to resource conservation and environmental protection, creating good working and living environments for the people, and ensuring sustainable development for the Chinese nation.

[...]

The Communist Party of China shall preserve and develop socialist relations among ethnic groups based on equality, solidarity, mutual assistance, and harmony; work proactively to train and select officials from ethnic minorities; help ethnic minorities and areas with concentrations of ethnic minorities with economic, cultural, and social development; foster a strong sense of community for the Chinese nation; and ensure that all ethnic groups work together for common development and prosperity. The Party shall fully implement its basic policy on religion, and encourage religious believers to contribute to economic and social development.

[...] The Party shall work continuously to strengthen the unity of all the Chinese people, including compatriots in the Hong Kong and Macao special administrative regions and in Taiwan as well as overseas Chinese. It shall promote long-term prosperity and stability in Hong Kong and Macao and achieve the reunification of the motherland in conformity with the principle of “one country, two systems.”

The Communist Party of China shall uphold an independent foreign policy of peace, follow a path of peaceful development, continue with the win-win opening up strategy, consider both domestic and international situations, and actively foster relations with other countries, endeavoring to develop a favorable international environment for China’s reform, opening up, and modernization. In international affairs, it shall uphold justice while pursuing shared interests, safeguard China’s independence and sovereignty, oppose hegemonism and power politics, defend world peace, promote human progress, work to build a
community with a shared future for mankind, and advance the building of a harmonious world of lasting peace and common prosperity. It shall develop relations between China and other countries on the basis of the five principles of mutual respect for sovereignty and territorial integrity, mutual nonaggression, mutual noninterference in internal affairs, equality and mutual benefit, and peaceful coexistence. The Party shall constantly work to develop good neighborly relations between China and its surrounding countries and work to strengthen unity and cooperation between China and other developing countries. It shall follow the principle of achieving shared growth through discussion and collaboration, and pursue the Belt and Road Initiative. The Communist Party of China shall develop relations with the Communist parties and other political parties of other countries in accordance with the principles of independence, complete equality, mutual respect, and noninterference in each other’s internal affairs.96

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