

PERMANENT MISSION OF AUSTRIA TO THE UNITED NATIONS
MISSION PERMANENTE DE L'AUTRICHE AUPRES DES NATIONS UNIES

No. 66.380/9/2010

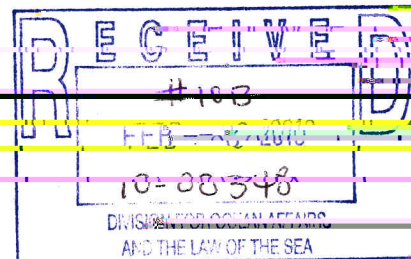
The Permanent Mission of Austria to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to the Secretary-General's request in Note DOALOS/Pracy 2009 of 8 January 2010 has the honour to inform the Secretary-General on the following:

Most crimes relating to maritime piracy can be subsumed to crimes enumerated in the Austrian Criminal Code (e.g. murder, abduction of liberty, physical injury or traffic in human beings).

These crimes are punishable in Austria, if they are also punishable by the law applicable at the place of crime (double incrimination rule) and if the perpetrator is either an Austrian or is caught on Austrian territory and cannot be extradited for a reason other than the nature or feature of his act. For crimes committed on the high seas the double incrimination rule does not apply; incrimination under Austrian law is sufficient (Section 65 of the Criminal Code). However, each prosecution of that kind, presupposing the transfer of a non-Austrian perpetrator to Austria, depends on the approval of the competent Austrian authorities.

Provided that Austrian interests had been violated, the perpetrator cannot be extradited the Austrian criminal laws are applicable for special crimes (e.g. kidnapping or slave traffic) regardless of the law applicable at the place of crime. Furthermore, Austrian criminal laws are applicable if an international treaty contains the obligation to prosecute (Section 65 of the Criminal Code).

To the
Secretary-General of the United Nations
Office of Legal Affairs
Codification Division
United Nations Headquarters
New York



Crimes committed on board an Austrian vessel can be prosecuted wherever the vessel is located (Section 63 of the Criminal Code)

Furthermore, the Austrian Maritime Law contains two paragraphs on maritime piracy. Section 45 penalises the threat or use of violence against persons to take possession of a ship, its cargo, or persons on board. The equipment or operation of a ship, including service on such ship, for the purpose of maritime piracy is punishable under Section 46. However, the scope of application of the Austrian Maritime Law is confined to Austrian ships.

The Permanent Mission of Austria to the United Nations avails itself of this opportunity to renew to the Secretary General of the United Nations the assurances of its highest consideration.

New York, 8 February 2010

