

YKEM107-6

VERBAL NOTE

The Permanent Mission of Finland to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to transmit the following information concerning Finnish legislation in response to verbal note DOALOS/Piracy 2009 of 8 January 2010.

Piracy is understood in this connection as defined in Article 101 of the United Nations Convention on the Law of the Sea, including the requirement that the act is committed in the high seas or in a place outside the jurisdiction of any State. Where the criminal acts in question constituted acts of armed robbery in the territorial waters of another State, their trial before Finnish courts would be subject to the requirement of double jeopardy. The Finnish Criminal Code does not provide for "acts of piracy" as specific offences, but such acts would be assessed in the light of the essential elements of other offences punishable under the Criminal Code, corresponding to the elements of piracy.

Chapter 1, section 2, of the Criminal Code provides for offences connected with a Finnish vessel. Finnish law applies to an offence committed on board a Finnish vessel or aircraft if the offence was committed (1) while the vessel was on the high seas or in territory not belonging to any State or while the aircraft was in or over such territory, or (2) while the vessel was in the territory of a foreign State or the aircraft was in or over such territory and the offence was committed by the master of the vessel or aircraft, a member of its crew, a passenger or a person who otherwise was on board.

Finnish law also applies to an offence committed outside of Finland that has been directed at a Finnish citizen, a Finnish corporation, foundation or other legal entity or a foreigner permanently resident in Finland if, under Finnish law, the act may be punishable by imprisonment for more than six months (Chapter 1, section 5, of the Criminal Code).

Finnish law further applies to an offence committed outside of Finland by a Finnish citizen. If the offence was committed in territory not belonging to any State, a precondition for the imposition of punishment is that, under Finnish law, the act is punishable by

Further provisions on the application of section 7 have been issued by a Decree which sets out an exhaustive list of crimes to which Finnish criminal law can be applied on the basis of universal jurisdiction, as well as of the international conventions providing the legal basis thereof. That list includes such offences against person (killing, assault, deprivation of personal liberty and robbery) and against property (hijacking, theft and criminal damage) that are to be considered piracy within the meaning of the United Nations Convention on the Law of the Sea.

As a general rule, a criminal case shall not be investigated in Finland without a prosecution order by the Prosecutor-General where the offence was committed abroad.

The Permanent Mission of Finland to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurance of its highest consideration.

New York, 19 February 2010

Secretariat of the United Nations
Division for Ocean Affairs and
the Law of the Sea
New York