



PERMANENT MISSION OF ITALY TO THE UNITED NATIONS

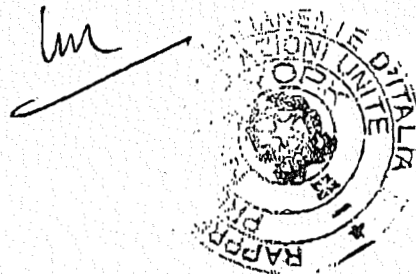
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New York, MAY 24 2011

The Permanent Mission of Italy to the United Nations presents its compliments to the Secretariat of the United Nations and has the honor to refer to its Note Verbale n. LA/COD/59/1 dated 20 January 2011 which, making reference to par. 3 of General Assembly Resolution 65/33 of 6 December 2010, requested Member States to provide information and observations concerning the item "The scope and application of the principle of universal jurisdiction".

In this regard, Italy – recalling that it has already provided preliminary views last year (see Note Verbale n. 2410, dated 21 May 2010) – would like to provide additional observations, which are in attachment to the present Note Verbale.

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



The Secretariat of the United Nations
Office of Legal Affairs
Codification Division
New York

The fight against impunity is a common goal shared by UN Member States. Universal jurisdiction stands for the principle that atrocities such as genocide, war crimes, crimes against humanity and torture are so heinous and so universally abhorred that any State is entitled to prosecute these crimes in its national courts regardless of where they were committed and of the nationality of the perpetrators or the victims.

Italy exercises universal jurisdiction over crimes against international law. According to a broad provision in the Italian Criminal Code (article 7, § 5), the foreigner that commits a crime abroad is punished under Italian law whenever this is provided for by special legislation, or by international conventions. Italy has pledged to co-operate in the suppression of all serious crimes by adopting multilateral conventions, bilateral and multilateral extradition treaties and treaties providing for mutual legal assistance in criminal matters.

The UNSG report explores the principles and the evolution of universal jurisdiction by tracing it through the development of conventional and customary law, as well as of national legislation and State practice. We believe that this report will become an essential tool in the analysis of the principle of universal jurisdiction. The report highlights the importance of having rules, guidelines and common objectives for the exercise of jurisdiction by States and for increasing cooperation among States and between States and international courts.

In light of current dynamics in international criminal law, at a time when the fight against impunity is one of the main concerns of the international community, it seems particularly appropriate to clarify the principles that would govern the exercise of universal jurisdiction. The goal is to devise a framework of reference under international law in order to specify under what conditions the State is internationally competent for investigating or prosecuting the extraterritorial offence.

The UNSG report may help to clarify the legal basis for the proper and reasoned exercise of universal jurisdiction. Insofar as universal jurisdiction is exercised, and seen to be exercised, in an appropriate, lawful and orderly manner, it will gain wider acceptance.

Common principles will help national legislative bodies to enact universal jurisdiction; they will also help judges to apply such jurisdiction in a correct manner while prosecuting international crimes or making extradition decisions (another important question concerning the exercise of universal jurisdiction is how to rank the different jurisdictional claims that different countries may raise in any given situation). Furthermore, these principles will assist governments that must decide whether to prosecute or to extradite, or how to promote otherwise international criminal accountability.

Mindful of the need to encourage continued progress in international law and despite the difficulties caused by the great variety of rules adopted by States, we hope that the UN Member States will promote the further development of universal jurisdiction and will extend the necessary cooperation to the international criminal jurisdictions, including the international tribunals, and especially to the International Criminal Court.