

UNITED NATIONS



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COMMITTEE OF THE WHOLE

PROPOSAL SUBMITTED BY THE UNITED STATES OF AMERICA FOR ARTICLE 25

In addition to other forms of responsibility for crimes under this Statute,

(a) A commander is criminally responsible for crimes under thisStatute committed by forces under his or her command and effective control asa result of the commander's failure to exercise properly this control where:

- (i) The commander either knew or, owing to the circumstances at the time, should have known, that the forces were committing or intending to commit such crimes; and
- (ii) The commander failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission [or punish the perpetrators thereof];

(b) A civilian superior is criminally responsible for crimes under this Statute committed by subordinates under his or her authority where:

- (i) The superior knew that the subordinates were committing or intending to commit a crime or crimes under this Statute;
- (ii) The crimes concerned activities that were within the official responsibility of the superior;
- (iii) The superior had the ability to prevent or repress the crime or crimes; and
- (iv) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission.

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