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**United Nations Diplomatic Conference  
of Plenipotentiaries on the Establishment  
of an International Criminal Court**

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COMMITTEE OF THE WHOLE

PROPOSAL SUBMITTED BY UKRAINE

Article 5

Crimes within the jurisdiction of the Court

War crimes

Statement by the delegation of Ukraine concerning the illegality  
of the use of nuclear weapons

1. Ukraine firmly believes that, in article 5, section B (o) (War crimes) should state directly that the use in international armed conflicts of weapons such as nuclear weapons is an act subject to criminal prosecution in accordance with the statute of the International Criminal Court.
2. In the opinion of the Ukrainian delegation, a decision to that effect would not create a new rule of international law, but would be an affirmation by States parties to the statute of the future court that, as was confirmed by the International Court of Justice in its advisory opinion of 8 July 1996 (see A/51/218, annex), the use of nuclear weapons is a breach of contemporary international humanitarian law and of the laws and customs of international armed conflicts.

GE.98-70705 (E)  
ROM.98-1036

3. Because of their indiscriminate effect on members of armed forces and on the civilian population and in view of the superfluous injury and unnecessary suffering caused by their use, nuclear weapons must, for the purposes of international justice, be placed on the same footing as chemical, bacteriological and other types of weapon that are subject to a comprehensive ban.

4. Ukraine, the first State in the world to have voluntarily renounced nuclear weapons and to have attained non-nuclear status, calls on other delegations to subscribe to its position concerning the illegality of the use of nuclear weapons.

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