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COMMITTEE OF THE WHOLE

PROPOSAL SUBMITTED BY THE REPUBLIC OF KOREA

Articles 13 and 13 bis

Information provided to the Prosecutor

1. Upon receipt of information on alleged crimes under article 5, provided by victims, associations on their behalf, regional or international organizations or any other reliable source, the Prosecutor shall examine the seriousness of the content of the information.
2. For the purpose of examination, the Prosecutor may request additional information from States, organs of the United Nations, regional or international governmental organizations or other sources that he or she may deem appropriate, and may receive written or oral testimony at the seat of the Court.
3. After the examination in accordance with paragraphs 1 and 2,
 - (a) If the Prosecutor considers that there is a reasonable ground to initiate an investigation, he or she may decide to do so in accordance with article 13 bis; or
 - (b) If the Prosecutor considers that the information provided is manifestly unfounded, he or she shall decide not to initiate an investigation and shall inform those who provided the information. Such a decision shall not preclude a subsequent provision of information to the Prosecutor based on new facts or evidence.

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ROM.98-1060

Article 13 bis

Challenges to ex officio investigation of the Prosecutor

1. If the Prosecutor decides to initiate an investigation in accordance with article 12 or article 13, paragraph 3 (a), he or she shall notify all States Parties of such a decision. Any interested State Party set out in article 8 may lodge with the Pre-Trial Chamber a challenge to the Prosecutor's decision to investigate within [thirty] days of notification, after which no challenge will be allowed. After the hearing, the Pre-Trial Chamber shall make a ruling on the admissibility of the challenge.
2. Within [thirty] days after the notification or pending a ruling of the Pre-Trial Chamber under paragraph 1, the Prosecutor shall not commence the investigation.
3. If the Pre-Trial Chamber decides that there is a reasonable ground to initiate an investigation, and the case appears to constitute one within the jurisdiction of the Court, taking into account article 15, the Prosecutor may commence investigation. The dismissal of challenge shall not affect the subsequent determinations by the Court of its jurisdiction or the admissibility of the case pursuant to article 17.
4. If the Pre-Trial Chamber decides that a challenge is manifestly well-founded, the Prosecutor shall not initiate an investigation of the case in question.
5. The acceptance of a challenge by the Pre-Trial Chamber under paragraph 4 shall not preclude the initiation of a subsequent investigation by the Prosecutor based on new facts or evidence.
