



**UNITED
NATIONS**



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

Distr.
LIMITED

A/CONF.183/C.1/WGGP/L.2
16 June 1998

Original: ENGLISH

Rome, Italy
15 June-17 July 1998

COMMITTEE OF THE WHOLE
Working Group on General Principles
of Criminal Law

PROPOSAL BY THE UNITED STATES OF AMERICA FOR SINGLE PROVISION COVERING
ISSUES CURRENTLY GOVERNED BY ARTICLES 31, 32, 33 and 34

1. In addition to other grounds for excluding criminal responsibility permitted by this Statute, a person is not criminally responsible if at the time of that person's conduct:¹

(a) [Retain current text of article 31 (1) (a)];

(b) The person acts reasonably to defend himself or herself or another person or property against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or property protected;

(c) The person was a member of forces acting pursuant to the order of a Government or of a military commander, unless the person knew the order to be unlawful or that the order was manifestly unlawful.²

2. The Court may determine the applicability of the grounds for exclusion of criminal responsibility permitted by this Statute [to the case before it].

3. At trial, the Court may consider a ground for excluding criminal responsibility other than those referred to in paragraph 1 where such ground is derived from applicable law as set forth in article 20. The procedures relating to the assertion and application of such ground shall be provided for in the Rules of Procedure and Evidence.³

¹The text of current article 31 (1) (b), (1) (d), (1) (e) and article 33 would be deleted.

²This paragraph is derived from the text of current article 32.

³This paragraph is derived from the text of current article 34.
