



UNITED
NATIONS



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

Distr.
LIMITED

A/CONF.183/C.1/WGPM/L.41*
4 July 1998

Original: ENGLISH

Rome, Italy
15 June-17 July 1998

COMMITTEE OF THE WHOLE
Working Group on Procedural Matters

TEXT PUT FORWARD BY A GROUP OF INTERESTED
DELEGATIONS ON ARTICLE 64

Article 64

Functions and powers of the Trial Chamber

1. The Trial Chamber shall ensure that a trial is fair and expeditious and is conducted in accordance with this Statute and the Rules of Procedure and Evidence, with full respect for the rights of the accused, including his or her protection, and due regard for the protection of victims and witnesses.
2. The functions and powers set out in this article are to be exercised in accordance with the Rules of Procedure and Evidence.

[Note: there was general agreement that this article would be supplemented by a number of more detailed provisions in the Rules of Procedure and Evidence, in particular regarding disclosure of documents and information between the parties. But it was thought unnecessary to repeat the reference to "in accordance with the Rules of Procedure and Evidence"; hence the introduction of the general wording in paragraph 2 above. This is, however, a wider problem which will need to be addressed throughout the procedures parts.]

Preparation for trial

[Note: The sub-headings in this text are included for guidance only. They will be deleted from the final text.]

* Reissued for technical reasons.

GE.98-71204 (E)
ROM.98-1745

3. Upon assignment of a case for trial in accordance with this Statute, the Trial Chamber assigned to deal with the case may:

- (a) Confer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings;
- (b) Determine the language or languages to be used at trial;
- (c) Subject to any other relevant provisions of this Statute, provide for disclosure of documents or information not previously disclosed, sufficiently in advance of commencement of the trial to enable adequate preparation for trial.

4. The Trial Chamber may, if necessary for its effective and fair functioning, refer preliminary issues to the Pre-Trial Chamber, or if necessary, to another available judge.

5. The Trial Chamber may direct that there be joinder or severance in respect of charges against more than one accused arising out of the same or related factual situations.

Preparation for trial and during the trial

6. In performing its functions prior to trial or during the course of a trial, the Trial Chamber may, as necessary:

- (a) Exercise any functions of the Pre-Trial Chamber referred to in article 61, paragraph 9;
- (b) Require the attendance and testimony of witnesses and production of documents and other evidence by obtaining, if necessary, the assistance of States as provided in this Statute;
- (c) Provide for the protection of confidential information;
- (d) Order the production of further evidence to that already collected prior to the trial or presented during the trial by the parties;
- (e) Provide for the protection of witnesses and victims;
- (f) Rule on any other relevant matters.

The trial

7. The trial shall be held in public. However, the Trial Chamber may determine that special circumstances require that certain proceedings be in closed session for the purposes set forth in article 68, or to protect confidential or sensitive information to be given in evidence.

[Note: the view was expressed that the principle in paragraph 7 is sufficiently important for the matter to be dealt with in a separate article.]

8. The deliberations of the Court shall remain confidential.

9. (a) At the commencement of the trial, the Trial Chamber shall read to the accused the charges previously confirmed by the Pre-Trial Chamber. The Trial Chamber will satisfy itself that the accused understands the nature of the charges. It will afford the opportunity to the accused to make an admission of guilt in accordance with article 65 or to plead not guilty.

(b) At the trial, the presiding judge may give directions for the conduct of proceedings. Subject to any directions of the presiding judge, the parties may submit evidence in accordance with the provisions of this Statute. *[Note: the provisions of paragraph 9 are subject to the outcome of debate on article 63.]*

10. The Trial Chamber shall have, inter alia, the power on application of a party or of its own motion to:

- (a) Rule on the admissibility or relevance of evidence;
- (b) Take all necessary steps to maintain order in the course of a hearing.

11. The Trial Chamber shall ensure that a complete record of the trial, which accurately reflects the proceedings, is maintained and preserved by the Registrar.
