



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.2/Corr.1
29 June 1998

Original: ENGLISH

Rome, Italy
15 June-17 July 1998

COMMITTEE OF THE WHOLE
Working Group on Procedural Matters

REPORT OF THE WORKING GROUP ON PROCEDURAL MATTERS

Corrigendum

Paragraph 2 should read as follows:

"2. The Working Group on Procedural Matters held eight meetings to consider these articles, from 19 to 24 June 1998. The Working Group herewith transmits to the Committee of the Whole the following articles for its consideration: article 54, paragraph 1 (a) and (b), paragraph 3 (a) and (b), paragraph 4; article 54bis, paragraph 1 (a), (b), (d) and (f), and paragraph 2; article 54ter, paragraph 1, paragraph 2 (a), (b), (c) and (d), paragraph 3; article 58, paragraphs 1 to 4; article 59, paragraphs 1, 2, 3, 4 and 5; article 60, paragraphs 1 to 5; article 61, paragraphs 2 to 8."

Article 54, paragraph 1, line 3

Replace the words "In deciding whether to invite" by the words "In deciding whether to initiate".

Article 54, paragraph 4

Add the following after paragraph 3:

Paragraph 4: pending

GE.98-70691 (E)
ROM.98-1010

Article 54 bis, paragraph 1

Delete the words "Paragraph 1: pending" and add the following text of paragraph 1:

"1. The Prosecutor may:

(a) Request the presence of and question suspects, victims and witnesses;

(b) Collect and examine evidence;

(c) pending

(d) Enter into such arrangements or agreements, not otherwise inconsistent with this Statute, as may be necessary to facilitate the cooperation of a State, intergovernmental organization or person;

(e) pending

(f) Take necessary measures or request that necessary measures be taken to ensure the confidentiality of information or the protection of any person or the preservation of evidence."

Article 54 ter, paragraph 2 (c)

Delete "(c) pending" and add the following text of paragraph 2 (c):

"(c) To have legal assistance of the person's choosing, or, if the person does not have legal assistance, to have legal assistance assigned to him or her by the Court in any case where the interests of justice so require, and without payment by the person in any such case if the person does not have sufficient means to pay for it."^{1/}

Delete "Proposed new subparagraphs (e), (f) and (g):

pending".

Article 59, paragraph 3

Delete "3. Pending." and add the following text of paragraph 3:

"3. The person arrested shall have the right to apply to the competent judicial authority in the custodial State for interim release pending surrender. In reaching a decision on any such application, the authorities in the custodial State shall consider whether, given the gravity of the alleged crimes, there are urgent and exceptional

^{1/} Some delegations proposed that a provision be inserted into the Rules of Procedure and Evidence granting a person being questioned the opportunity to be medically examined.

circumstances to justify interim release and whether necessary safeguards exist to ensure that the custodial State can fulfil its duty to surrender the person to the Court. In determining an application for interim release, it shall not be open to the custodial State to consider whether the warrant of arrest was properly issued in accordance with article 58, paragraph 1 (a) and (b). The Pre-Trial Chamber shall be notified of any request for interim release and shall make recommendations to the national authorities. The competent judicial authority in the custodial State shall give full consideration to such recommendations, including any recommendations on measures to prevent the escape of the person, before rendering its decision. If the person is granted interim release, the Pre-Trial Chamber may request periodic reports on the status of the interim release."

Article 60, paragraph 2, line 3

Replace the phrase "conditions set forth in article 51, paragraph 1," by the phrase "conditions set forth in article 51 ..."2/

Article 61, paragraph 3

Delete "Paragraph 3: pending" and add the following text of paragraph 3:

"3. Before the hearing, the Prosecutor may continue the investigation and may amend or withdraw any proposed charges. The accused shall be given reasonable notice before the hearing of any amendment or withdrawal of proposed charges. In case of a withdrawal of proposed charges, the Prosecutor shall notify the Pre-Trial Chamber of the reasons for the withdrawal."

Article 61, paragraph 7

Delete "Paragraph 7: pending" and add the following text of paragraph 7:

7. After the charges are confirmed and before the trial has begun, the Prosecutor may amend the charges, but only with the permission of

2/ The Working Group will return to the reference to article 58.

the Pre-Trial Chamber and after notice to the accused. If the Prosecutor seeks to add additional charges or to substitute more serious charges, a hearing under this article to confirm those charges must be held. After commencement of the trial, the Prosecutor may withdraw the charges only with the permission of the Trial Chamber. In case of a withdrawal of proposed charges, the Prosecutor shall notify the Pre-Trial Chamber of the reasons for the withdrawal.
