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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

COORDINATOR'S ROLLING TEXT

As at 7.00 p.m., Friday, 10 July 1998,
still subject to further consultations

PREAMBLE

[The States Parties to this Statute,

Conscious that all peoples are united by common bonds, and that their cultures are woven together in a shared heritage, a delicate tapestry that may at any time be rent asunder by unimaginable atrocities threatening the peace, security and well-being of our world,

Mindful that during this past century millions of children, women and men have been victims of grave crimes that deeply shock the conscience of humanity,

Affirming that serious crimes of concern to the international community as a whole must not go unpunished, and to that end their effective prosecution must be ensured both by measures taken at the national level and by enhancing international cooperation,

Emphasizing that the International Criminal Court established under this Statute shall be complementary to [and would have no bearing on] national criminal jurisdictions,

Recalling that it is the duty of every State to exercise its criminal jurisdiction against those responsible for international crimes,

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Determined to put an end to impunity and thus to contribute to the prevention of such crimes,

Reaffirming the purposes and principles of the Charter of the United Nations,

Determined, to these ends and for the sake of present and future generations, to establish a permanent International Criminal Court in relation[ship] with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,

Resolved to guarantee lasting respect for and the enforcement of international justice,

Have agreed as follows:]

PART 13. FINAL CLAUSES

Article 108

Settlement of disputes

Any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court. Any other dispute between two or more States Parties relating to the interpretation or application of this Statute which is not resolved through negotiations within three months of their commencement shall be referred to the Assembly of States Parties. The Assembly may itself seek to resolve the dispute or make recommendations on further means of settlement of the dispute, including referral to the International Court of Justice in conformity with the Statute of that Court.

Article 109

Reservations

Option 1

No reservations may be made to this Statute.

Option 2

1. Any State may at the time of signature, ratification, acceptance, approval or accession make reservations in respect of the following ...

ALTERNATIVELY

1. No reservations to this Statute shall be permitted unless expressly provided for in specific articles of the Statute.

2. In the event of a dispute or legal question arising in connection with the admissibility of reservations made by a State, the Court shall be competent to decide the admissibility of such reservations.

Option 3

1. At the time of signature, ratification, acceptance, approval or accession, any State may make reservations to articles of this Statute except [those in Parts ...] [articles ...].

2. A State which has made reservations may at any time by notification in writing to the Secretary-General of the United Nations withdraw all or part of its reservation.¹

Option 4

No article on reservations.

¹This paragraph may be redundant in that it restates existing law.

Article 110

Amendments

1. After the expiration of [5] [10] years from the entry into force of this Statute, any State Party may propose amendments thereto. The text of any proposed amendment shall be submitted to the [Secretary-General of the United Nations], who shall promptly circulate it to all States Parties.
2. No sooner than three months from the date of notification, the next Assembly of States Parties shall, by a simple [2/3] majority of those present and voting, decide on whether to take up the proposal. The Assembly may deal with the proposal directly or convene a Review Conference if the issue involved so warrants.
3. The adoption of an amendment at a meeting of the Assembly of States Parties or at a Review Conference on which consensus cannot be reached shall require a [2/3] [3/4] [5/6] [7/8] majority of [all States Parties] [those present and voting, representing an absolute majority of all States Parties].
4. Except as provided in paragraph 5, an amendment shall enter into force for [all] States Parties one year after instruments of ratification or acceptance have been deposited with the [Secretary-General of the United Nations] by [5/6] [7/8] of them [, including at least .. ² States Parties].
- [5. Any amendment to article 5 of the Statute shall enter into force for those States Parties which have accepted the amendment one year after the deposit of their instruments of ratification or acceptance [, unless the Assembly or the Conference has decided that the amendment shall come into force for all States Parties once it has been accepted by [5/6] [7/8] of them]].

²Same number as in article 114.

6. If an amendment has been accepted by [5/6] [7/8] of States Parties in accordance with paragraphs 4 or 5, any State Party which has not accepted the amendment may withdraw from the Statute with immediate effect, notwithstanding paragraph 1 of article 115, but subject to paragraph 2 of article 115, by giving notice no later than one year after the entry into force of such amendment.

7. [The Secretary-General of the United Nations] shall circulate any amendment adopted at a meeting of the Assembly of States Parties or a Review Conference to all States Parties.

Article 110 bis

Amendments to provisions of an institutional nature

1. Amendments to provisions of the Statute which are of an exclusively institutional nature, namely, articles 36, 37 [, excluding paragraphs 1 and 2, OR 3 to 7, OR 1 to 7], 38, [paragraph 3 of 39, 40, paragraphs 2 to 4 and 8 and 9 of article 43, paragraphs 1 to 3 of articles 44, 45], 50 and [72] may be proposed [at any time] [after the Statute has been in force for ...], notwithstanding paragraph 1 of article 110, by any State Party. The text of any proposed amendment shall be submitted to the [Secretary-General of the United Nations] who shall promptly circulate it to all States Parties.

2. Amendments under this article on which consensus cannot be reached shall be adopted by the Assembly of States Parties or by a Review Conference, by a [2/3] [3/4] majority of States Parties. Such amendments shall enter into force for all States Parties six months after their adoption by the Assembly or, as the case may be, by the Conference.

Article 111

Review of the Statute

1. [Five] [10] years after the entry into force of this Statute the [Secretary-General of the United Nations] shall convene a Review Conference to consider any amendments to this Statute. Such review may include but is not limited to the list of crimes contained in article 5. The Conference shall be open to those participating in the Assembly of States Parties and on the same conditions.
2. At any time thereafter, at the request of a State Party and for the purposes set out in paragraph 1, the [Secretary-General of the United Nations] shall, upon approval by a majority of States Parties, convene a Review Conference.
3. The provisions of paragraphs 3 to 7 of article 110 shall apply to the adoption and entry into force of any amendment of the Statute considered at a Review Conference.

Article 112

Signature, ratification, acceptance, approval or accession

1. This Statute shall be open for signature by all States in Rome, at the headquarters of the Food and Agriculture Organization of the United Nations, on [17 July 1998]. Thereafter, it shall remain open for signature in Rome at the Ministry of Foreign Affairs of Italy until [17 October 1998]. After that date, the Statute shall remain open for signature in New York, at United Nations Headquarters, until 31 December 2000.
2. This Statute is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.
3. This Statute shall be open to accession by all States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

[Article 113]

Early activation of principles and rules of the Statute

Pending the entry into force of the Statute, States that have signed the Statute shall, in accordance with applicable principles of international law, refrain from acts which would defeat the object and purpose of the Statute. To this end, in ensuring the international prosecution and suppression of crimes of international concern, States should pay due regard to the relevant principles and provisions contained in the Statute, including in the performance of their responsibilities in competent organs of the United Nations, with a view to accelerating the achievement of the shared goal of establishing the Court.]

Article 114

Entry into force

1. This Statute shall enter into force [following the completion of the Rules of Procedure and Evidence] on the first day of the month after the 60th day following the date of the deposit of the [...] instrument of ratification, acceptance, approval or accession with the [Secretary-General of the United Nations].
2. For each State ratifying, accepting, approving or acceding to the Statute after the deposit of the [...] instrument of ratification, acceptance, approval or accession, the Statute shall enter into force on the first day of the month after the 60th day following the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 115

Withdrawal

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.
2. A State shall not be discharged by reason of its withdrawal from the obligations arising from this Statute while it was a Party to the Statute, including any financial obligations which may have accrued. Nor shall the withdrawal affect any cooperation with the Court in connection with criminal investigations and proceedings [in relation to which the withdrawing State had a duty to cooperate] prior to the date at which the withdrawal became effective; nor shall it prejudice in any way the continued consideration of any matter which is already under consideration by the Court prior to the date at which the withdrawal became effective.

Article 116

Authentic texts

The original of this Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Statute.

DONE at Rome, this 17th day of July 1998
