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COMMITTEE OF THE WHOLE

WORKING PAPER ON ARTICLE 17

Challenges to the jurisdiction of the Court  
or the admissibility of a case

1. The Court shall satisfy itself that it has jurisdiction in any case brought before it. 1/ The Court may, on its own motion, determine the admissibility of a case pursuant to article 15.
2. Challenges to the admissibility of the case, pursuant to article 15, or challenges to the jurisdiction of the Court may be made by:
  - (a) An accused or a person for whom a warrant of arrest or a summons to appear has been issued pursuant to article 58; 2/
  - (b) A State 3/ which has jurisdiction over a case on the ground that it is investigating or prosecuting the case or has investigated or prosecuted. 4/

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1/ Some delegates held the view that the issue contained in this sentence should be dealt with in a separate article 14.

2/ The term "suspect", deemed too general in scope, has been deleted.

3/ A number of delegations accepted subparagraph (b) with the proviso that a State non-party which challenged the admissibility of a case under article 17 should assume the obligations of a State Party in accordance with the provisions of articles 15 and 16 and of Part 9.

4/ The final wording of this subparagraph will depend on the content of article 15.

GE.98-71870 (E)

ROM.98-2890

The Prosecutor may seek a ruling from the Court regarding a question of jurisdiction or admissibility.

In proceedings with respect to jurisdiction or admissibility, those having submitted the case pursuant to article 6, as well as victims, may also submit observations to the Court.

3. <sup>5</sup> The admissibility of a case or the jurisdiction of the Court may be challenged only once by any person or State referred to in paragraph 2.

The challenge must take place prior to or at the commencement of the trial.

In exceptional circumstances, the Court may grant leave for a challenge to be brought more than once or at a time later than the commencement of the trial.

Challenges to the admissibility of a case, at the commencement of a trial, or subsequently with the leave of the Court as provided in the preceding subparagraph, may only be based on article 15, paragraph 1 (c). <sup>6</sup>

4. A State referred to in paragraph 2 (b) of the present article shall make a challenge at the earliest opportunity.

5. Prior to the confirmation of the indictment, challenges to the admissibility of a case or challenges to the jurisdiction of the Court shall be referred to the Pre-Trial Chamber. After confirmation of the indictment, they shall be referred to the Trial Chamber.

Decisions with respect to jurisdiction or admissibility may be appealed to the Appeals Chamber, pursuant to article 81.

6. If the Court has decided that a case is inadmissible pursuant to article 15, the Prosecutor may submit a request for a review of the decision when he or she is fully satisfied that new facts have arisen which negate the basis on which the case had previously been found inadmissible under article 15.

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<sup>5</sup>It was suggested that if several States have jurisdiction over a case and one of those States has already challenged the jurisdiction of the Court, the remaining States should not bring additional challenges except on different grounds.

<sup>6</sup>The final wording of this subparagraph will depend on the content of article 15.