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of Plenipotentiaries on the  
Establishment of an International  
Criminal Court**

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COMMITTEE OF THE WHOLE  
Working Group on Applicable Law

WORKING PAPER ON ARTICLE 20

Applicable law

1. The Court shall apply:

(a) In the first place, this Statute and its Rules of Procedure and Evidence;<sup>1</sup>

(b) If necessary, applicable treaties and the principles and rules of general international law, including the established principles of the law of armed conflict;

(c)

Option 1<sup>2</sup>

Failing that, general principles of law derived by the Court from national laws of legal systems of the world, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.

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<sup>1</sup>Subject to a decision on whether the Rules of Procedure and Evidence should be an integral part of the Statute, as annexes or otherwise, or not.

<sup>2</sup>Most delegations favoured option 1, but some still favour option 2. A view was expressed that the laws indicated in option 2 could be given as examples of the national laws referred to in option 1, so that the two options be combined.

Option 2 <sup>3</sup>

Failing that, and only insofar as it is consistent with the objectives and purpose of this Statute:

- (i) The national law of the State where the crime was committed or, if the crime was committed in the territories of more than one State, the national law of the State where the substantial part of the crime was committed;
- (ii) If the laws of the State or States mentioned in subparagraph (i) do not exist, the national law of the State of nationality of the accused or, if the accused does not have a nationality, the national law of the State or his or her permanent residence; or
- (iii) If the laws of the States mentioned in subparagraphs (i) and (ii) do not exist, the national law of the State which has custody of the accused.

2. The Court may apply principles and rules of law as interpreted in its previous decisions.

3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights, <sup>4</sup> which include the prohibition on any adverse distinction founded on gender, age, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status, or on any other similar criteria.

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<sup>3</sup>Most delegations favoured option 1, but some still favour option 2. A view was expressed that the laws indicated in option 2 could be given as examples of the national laws referred to in option 1, so that the two options be combined.

<sup>4</sup>Some delegations were of the view that this paragraph should end after the words "human rights".