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Establishment of an International
Criminal Court**

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Chairman's discussion paper

Article 87. [Surrender] [Transfer] [Extradition]
of persons to the Court

and

Article 88. Contents of request for
[surrender] [transfer] [extradition]

Article 87, paragraph 5

A State Party [having received a request under this Part may, in accordance with the Rules of Procedure and Evidence,] file a written application with the Court to [set aside] [withdraw] [or amend] the request on specified grounds [including those mentioned in articles 15 and 18] [, including that execution of the request in its current form would require the requested State to breach an existing treaty obligation undertaken to another State] [or in the case of a request for surrender, that the person named in the warrant is not the person in the custodial State or that the person cannot be located] or that there is insufficient information to execute the request.] (the rest of the paragraph as in current 87 (5)).

or

GE.98-70506 (E)
ROM.98-0696

Article 88, paragraph 2

Where a State receives a request under this Part and identifies problems with the request which may impede or prevent its execution, including but not limited to:

- (a) Insufficient information to execute the request; or
 - (b) In the case of a request for surrender, despite best efforts, that the person sought cannot be located or that investigation conducted has determined that the person in the custodial State is clearly not the person named in the warrant; or
 - (c) That execution of the request in its current form would require the requested State to breach an existing treaty obligation undertaken to another State,
- the requested State shall, without delay, consult with the Court to resolve the matter.
