



UNITED
NATIONS



United Nations Diplomatic
Conference of Plenipotentiaries
on the Establishment of an
International Criminal Court

Distr.
LIMITED

A/CONF.183/C.1/WGP/L.14/Add.3/Rev.1
17 July 1998

Original: ENGLISH

Rome, Italy
15 June-17 July 1998

COMMITTEE OF THE WHOLE
Working Group on Penalties

REPORT OF THE WORKING GROUP ON PENALTIES

I. INTRODUCTION

1. The Working Group on Penalties held two additional meetings, on 11 and 16 July 1998, to consider the remaining article contained in Part 7, Penalties. The Working Group herewith transmits to the Committee of the Whole the following article of Part 7, as well as the accompanying statement, for its consideration: article 79 bis. The Working Group also notes the deletion of article 75, paragraph 1 (e). 1/ The Working Group thereby concluded its consideration of Part 7.

II. TEXT OF DRAFT ARTICLES

Part 7. Penalties

Article 75

Applicable penalties

1. ...

...

(e) deleted

1/ Some delegations do not agree with the decision to exclude the death penalty but they have decided to permit the Conference to proceed on the basis of the Chairman's proposal while reserving the right to put their views on record at appropriate stages of the Conference.

GE.98-72484 (E)

ROM.98-4078

Article 79 bis 2/

Nothing in this Part of the Statute affects the application by States of penalties prescribed by their national law, nor the law of States which do not provide for penalties prescribed in this Part.

Note

The Working Group recommends that the President of the Conference make the following statement and that this statement be included in the official records of the Conference:

With regard to the non-inclusion of the death penalty in the Statute, I should like to make the following statement:

"Statement

"The debate at this Conference on the issue of which penalties should be applied by the Court has shown that there is no international consensus on the inclusion or non-inclusion of the death penalty. However, in accordance with the principles of complementarity between the Court and national jurisdictions, national justice systems have the primary responsibility for investigating, prosecuting and punishing individuals, in accordance with their national laws, for crimes falling under the jurisdiction of the International Criminal Court. In this regard, the Court would clearly not be able to affect national policies in this field. It should be noted that not including the death penalty in the Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty. Nor shall it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes."

2/ The Drafting Committee may wish to consider the placement of this article in Part 7.