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**Preparatory Commission for the
International Criminal Court**

Working Group on Rules of Procedure and Evidence

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**Proposal submitted by the Netherlands in connection with
document PCNICC/1999/WGRPE/RT.5**

A.

Rule 6.26. Jurisdiction

1. In cases where the right of the Court to exercise jurisdiction and the right of the territorial or custodial State to exercise jurisdiction are concurrent, the Court shall have the primary right to exercise jurisdiction.
2. If, in situations referred to in paragraph 1 of this article, the Court decides not to exercise jurisdiction, it shall notify the authorities of the territorial or custodial State as soon as practicable. Following receipt of such notification, the territorial or custodial State may exercise jurisdiction over the case.
3. The Court shall give sympathetic consideration to a request from the territorial or custodial State for a waiver of its primary right to exercise jurisdiction in cases where the territorial or custodial State considers such a waiver to be of particular importance.

B.

Rule 6.32. Penalties

I.

Add:

“(d) Article 103 shall apply *mutatis mutandis*.”

II.

Add:

“(e) Article 109, paragraph 1, shall apply *mutatis mutandis*.”
