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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 Australia and France to govern revision of conviction or sentence**

Australia has proposed rules relating to the revision proceedings before the Court in PCNICC/1999/DP.1. France has made comments on the Australian proposed rules on the revision in PCNICC/1999/WGRPE/DP.13.

This document is intended to replace the above two documents and to reflect the agreed views of the delegations of France and Australia on the rules to govern the revision proceedings.

#### **Rule 8.11. Application for revision**

a) An application for revision provided for in article 84, paragraph 1, shall be submitted in writing to the Registrar. The application shall set out the grounds on which revision is sought. It may be accompanied by supporting material;

The Registrar shall send notification of the application to all the parties having participated in the proceedings that led to the decision which is the subject of the application. Those who receive notification of the application shall be entitled to make oral or written submissions to the Appeals Chamber.

b) At a date which it shall determine and shall communicate to the applicant and to all the parties which have received notification of the application for revision in accordance with sub-rule (a), the Appeals Chamber shall hold a hearing to determine whether the application is meritorious.

For the preparation and the conduct of the hearing, the Appeals Chamber shall exercise, *mutatis mutandis*, all the powers of the Trial Chamber pursuant to Part 6 of the Statute and Rules 6.1 to 6.27.

c) The determination under sub-rule (b) shall be taken by a majority of the judges. If the Appeals Chamber determines that the application is meritorious, it shall then determine, in accordance with article 84, paragraph 2, whether to reconvene the original Trial Chamber, or constitute a new Trial Chamber or retain jurisdiction over the matter.

Notification of the determination shall be sent to the applicant and to all the parties which received notification of the application for revision in accordance with sub-rule (a).

(**N.B.** This rule seeks to provide a procedure for initiating and considering an application for revision;

Article 84, paragraph 2, does not provide the basis upon which the Appeals Chamber is to make a determination on the application. Sub-rule (c) seeks to address this point.)

### **Rule 8.12. Final determination of an application for revision**

a) Within (x) days of a determination being made under sub-rule 8.11 (c), the relevant Chamber shall convene a hearing to fix the procedural arrangements for the hearing to determine whether the conviction or sentence which is the subject of the application for revision should be revised;

b) The applicant, and all the parties which have received notification of the application for revision in accordance with sub-rule 8.11 (a), shall have standing to make written or oral submissions during the hearing referred to in sub-rule (a).

c) The determination as to whether the sentence or conviction should be revised shall be taken by a majority of the judges of the Chamber. The determination shall be supported by reasons in writing.

(**N.B.** This rule seeks to establish a procedure for the final determination of an application for revision.

Sub-rule (a) allows a Chamber to have flexibility in settling the procedural arrangements for the hearing.

Article 84, paragraph 2, does not provide for the basis upon which the Chamber is to make a determination on the application. Sub-rule (c) seeks to address this point.)

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