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**Preparatory Commission for the International  
Criminal Court**

**Working Group on Rules of Procedure and Evidence  
concerning Part 5 of the Statute**

New York

13-31 March 2000

12-30 June 2000

27 November-8 December 2000

**Proposal submitted by Colombia concerning the Rules of  
Procedure and Evidence relating to Part 5 of the Statute, on  
investigation and prosecution**

**Comments by the delegation of Colombia on the working paper  
submitted by the Coordinator concerning the rules of procedure  
and evidence relating to Part 5 of the Statute, as incorporated in  
document PCNICC/1999/L.5/Rev.1/Add.1**

**Rule 5.11. Collection of information regarding the state of health of the person  
concerned**

It is interesting that this rule contemplates the possibility that the Pre-Trial Chamber may appoint an expert adviser to collaborate in the study, determination and evaluation of the expert evidence. What we propose is not a form of expert evidence but rather an adviser for the Chamber. We therefore suggest adding a subparagraph (c), which would read as follows:

“(c) The Pre-Trial Chamber shall appoint an expert adviser to collaborate in the analysis, determination and study of the expert evidence referred to in subparagraph (b) of this rule”.

**Rules 5.13 and 5.14. Collection of evidence in the territory of a State Party;  
collection of evidence at the request of the defence**

We believe that the word “collection” should be replaced by “obtaining”, which is more indicative of the contents of the rule.

**Rules 5.20, 5.22 and 5.23. Measures to ensure the presence of the person concerned at the confirmation hearing; decision to hold the confirmation hearing in the absence of the person concerned; confirmation hearing in the absence of the person concerned**

In the cases of subparagraphs (b), (a) and the second paragraph of (a), respectively, of the above-mentioned rules, the Pre-Trial Chamber may decide to permit the presence of counsel. Since respect for the right of defence is in the interests of justice, we suggest adding the following rule, which develops the second paragraph of article 61 (b) and article 67 (d):

“For the purposes of the second paragraph of article 61 (b), it is understood that provided that the person concerned has granted power to a counsel of his or her choosing, or the Court, in accordance with article 67 (d), has appointed a counsel in the interests of justice, either of the two shall represent the person concerned in the hearing on confirmation of charges”.

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