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**Preparatory Commission for the International  
Criminal Court**

**Working Group on Elements of Crimes**

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**Discussion paper proposed by the Coordinator**

**Article 8, paragraph 2 (b) (xvii), (xviii) and (xix)**

**Article 8 (2) (b) (xvii): War crime of employing poison or poisoned weapons**

1. The conduct took place in the context of and was associated with an international armed conflict.
2. The accused employed a substance that causes death or serious damage to health in the ordinary course of events, through its toxic properties, or a weapon that releases such a substance as a result of its employment.
3. The accused was aware of the nature of such substance or weapon.

**Article 8 (2) (b) (xviii): War crime of employing prohibited gases, liquids, materials or devices**

1. The conduct took place in the context of and was associated with an international armed conflict.
2. The accused employed a gas, other substance or device that causes death or serious damage to health in the ordinary course of events, through its asphyxiating or toxic properties.<sup>1</sup>
3. The accused was aware of the nature of such gas, substance or device.

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<sup>1</sup> Nothing in this element shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law with respect to development, production, stockpiling and use of chemical weapons.

**Article 8 (2) (b) (xix): War crime of employing prohibited bullets**

1. The conduct took place in the context of and was associated with an international armed conflict.
2. The accused employed bullets the use of which violates the international law of armed conflict because they expand or flatten easily in the human body.
3. The accused was aware that the nature of the bullets was such that their employment would uselessly aggravate suffering or the wounding effect.

**Article 8 (2) (b) (xx): War crime of employing weapons, projectiles or material or methods of warfare listed in the Annex to the Statute**

*[Elements will have to be drafted once weapons, projectiles or material or methods of warfare have been included in an annex to the Statute.]*

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