

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

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**A/CONF.183/C.1/SR.22**

**22nd meeting of the Committee of the Whole**

Extract from Volume II of the *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

## 22nd meeting

Thursday, 2 July 1998, at 3.20 p.m.

*Chairman:* Mr. Kirsch (Canada)

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### Agenda item 11 (*continued*)

**Consideration of the question concerning the finalization and adoption of a convention on the establishment of an international criminal court in accordance with General Assembly resolutions 51/207 of 17 December 1996 and 52/160 of 15 December 1997 (A/CONF.183/2/Add.1 and Corr.1, A/CONF.183/C.1/WGIC/L.8/Rev.1 and Corr.1 and 2, A/CONF.183/C.1/WGIC/L.10 and Corr.1 and A/CONF.183/C.1/WGIC/L.11 and Corr.1 and 2)**

#### DRAFT STATUTE

##### PART 9. INTERNATIONAL COOPERATION AND JUDICIAL ASSISTANCE

##### *Report of the Working Group on International Cooperation and Judicial Assistance*

(A/CONF.183/C.1/WGIC/L.8/Rev.1 and Corr.1 and 2, A/CONF.183/C.1/WGIC/L.10 and Corr.1 and A/CONF.183/C.1/WGIC/L.11 and Corr.1 and 2)

1. The **Chairman** invited the Coordinator for part 9 to introduce the report of the Working Group on International Cooperation and Judicial Assistance.
2. **Mr. Mochochoko** (Lesotho), Coordinator for part 9, introducing the report of the Working Group, said that it was transmitting to the Committee of the Whole for consideration article 85; article 86, paragraphs 1 to 4, 6 and 7; articles 88, 89 and 90 bis; all paragraphs of article 91 with the exception of paragraph 4; and article 91 bis. The remaining articles would be transmitted at a later stage.

3. He wished to highlight a few points regarding some of those articles. In article 88, paragraph 1 (a) (iii), a footnote should be added reading: "Some delegations have emphasized that they accept paragraph 1 (a) (iii) with the proviso that, in article 87, paragraph 3, subparagraph (d) of option 2 will be deleted." In article 91 bis, the reference in the first sentence of paragraph 2 should be to paragraph 1. The understanding of the Working Group was that the text within brackets in article 86, paragraph 7, would have to be reconsidered in the light of the decision on the question of referral of the matter to the International Criminal Court by the Security Council. The terms that appeared in brackets in articles 88 and 89 should be considered in the light of the use of those terms in article 87. Lastly, the terms enclosed in brackets in article 91, paragraph 1, would have to be reconsidered in the light of the decision taken on the question of application of national law in part 9.

4. **Ms. Borek** (United States of America), referring to the footnote to article 88, paragraph 1 (a) (iii), pointed out that there had in fact been no agreement on the deletion of subparagraph (d) of option 2 for article 87, paragraph 3. She therefore proposed that, for the sake of clarity, a further sentence should be added to the footnote, to read: "This issue, however, is still under discussion in the Working Group."

5. The **Chairman** said that he noted that the Coordinator for part 9 was prepared to accept that amendment. If he heard no objection he would take it that the Committee of the Whole wished to refer the articles concerned to the Drafting Committee.

6. *It was so decided.*

*The meeting rose at 3.30 p.m.*