

A/AC.249/WP.53
29 August 1996

ORIGINAL: ENGLISH

PREPARATORY COMMITTEE ON THE ESTABLISHMENT
OF AN INTERNATIONAL CRIMINAL COURT
12-30 August 1996

PROPOSAL SUBMITTED BY ISRAEL FOR ARTICLES 44, 45 AND 47

Article 44

In paragraph 2, replace the word "perjury" with the words "false testimony"

In paragraph 3, after the words: "relevance or admissibility" add the words "after hearing the parties to the case"

Add a new paragraph 5 bis reading:

"With regard to defences open to the accused under the general principles of criminal law in this statute, the onus of proof shall be on the accused, subject to a preponderance of probability as applicable in civil cases."

Article 45

Insert a new paragraph 4 bis reading:

"The Court may, on the strength of facts proved before it, convict the accused of a crime, even if this crime was not included in the indictment, provided that the punishment to be imposed on the accused shall not be more severe than the punishment which might have been imposed under the original indictment, provided the accused has had a fair opportunity to prepare his defence."

Article 47

Delete paragraph 1 (b) or alternatively, amend paragraph 1 (b) to read:

"(b) a fine, and in the event that the fine is not paid, a period of imprisonment to be fixed by the Court."



Add a new paragraph 4 reading:

"4. The Court may order the restitution of property wrongfully taken from the victim of a crime to the victim of the crime or to his heirs, and, if there are no heirs or their identity or whereabouts cannot be established, to the State of which the victim was a national."

Note: The Statute should prescribe the maximum penalty which may be imposed in respect of each category of crimes within the jurisdiction of the Court.
