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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 6  
Genocide**

**Introduction**

With respect to the last element listed for each crime:

- The term “in the context of” would include the initial acts in an emerging pattern;
- The term “manifest” is an objective qualification;
- Notwithstanding the normal requirement for a mental element provided for in article 30, and recognizing that knowledge of the circumstances will usually be addressed in proving genocidal intent, the appropriate requirement, if any, for a mental element regarding this circumstance will need to be decided by the Court on a case-by-case basis.

**Article 6 (a)  
Genocide by killing**

**Elements**

1. The accused killed one or more persons.
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.
3. The accused intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.

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4. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

#### **Article 6 (b)**

##### **Genocide by causing serious bodily or mental harm**

###### **Elements**

1. The accused caused serious bodily or mental harm to one or more persons.<sup>1</sup>
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.
3. The accused intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

#### **Article 6 (c)**

##### **Genocide by deliberately inflicting conditions of life calculated to bring about physical destruction**

###### **Elements**

1. The accused inflicted certain conditions of life upon one or more persons.
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.
3. The accused intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The conditions of life were calculated to bring about the physical destruction of that group, in whole or in part.<sup>2</sup>
5. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

#### **Article 6 (d)**

##### **Genocide by imposing measures intended to prevent births**

###### **Elements**

1. The accused imposed certain measures upon one or more persons.
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.

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<sup>1</sup> This conduct may include, but is not necessarily restricted to, acts of torture, rape, sexual violence or inhuman or degrading treatment.

<sup>2</sup> The term “conditions of life” may include, but is not necessarily restricted to, deliberate deprivation of resources indispensable for survival, such as food or medical services, or systematic expulsion from homes.

3. The accused intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The measures imposed were intended to prevent births within that group.
5. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

## **Article 6 (e)**

### **Genocide by forcibly transferring children**

#### **Elements**

1. The accused forcibly transferred one or more persons.<sup>3</sup>
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.
3. The accused intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The transfer was from that group to another group.
5. The person or persons were under the age of 18 years.
6. The accused knew, or should have known, that the person or persons were under the age of 18 years.
7. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

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<sup>3</sup> The term “forcibly” is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment.