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**Working Group on Rules of Procedure and Evidence
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**Discussion paper submitted by the Coordinator concerning Part 9
(International cooperation and judicial assistance)**

Rules relating to articles 89 to 101 of the Statute

Article 89

Rule 9.6. Challenge to admissibility of a case before a national court

When a situation described in article 89, paragraph 2, arises, and without prejudice to the provisions of article 19 and of rules (n) to (mm) on procedures applicable to challenges to the jurisdiction of the Court or the admissibility of a case, the Chamber of the Court dealing with the case, if the admissibility ruling is still pending, shall take steps to obtain from the requested State all the relevant information about the *ne bis in idem* challenge brought by the person.

Rule 9.7. Request for transit under article 89, paragraph 3 (e)

(a) In situations described in article 89, paragraph 3 (e), the Court may transmit the request for transit by any medium capable of delivering a written record.

(b) When the time limit provided for in article 89, paragraph 3 (e), has expired and the concerned person has been released, such a release is without prejudice to a subsequent arrest of the concerned person in accordance with the provisions of article 92 or article 89.

Rule 9.8. Possible temporary surrender

Following the consultations referred to in article 89, paragraph 4, the requested State may temporarily surrender the person sought in accordance with conditions to be determined between the requested State and the Court. In such case the person shall be kept in custody during his or her presence before the Court and shall be transferred to the requested State once his or her presence before the Court is no longer required, at the latest when the proceedings have been completed.

Rule 9.9. Arrangements for surrender

(a) The requested State shall immediately inform the Registrar when the person sought by the Court is available for surrender.

(b) The person shall be surrendered to the Court by the date and in the manner agreed upon between the authorities of the requested State and the Registrar.

(c) If circumstances prevent the surrender of the person by the date agreed, the authorities of the requested State and the Registrar shall agree upon a new date and manner by which the person shall be surrendered.

(d) The Registrar shall maintain contact with the authorities of the host State in relation to the arrangements for the surrender of the person.

Article 90

Rule 9.10. Competing requests in the context of a challenge to the admissibility of the case

In situations described in article 90, paragraph 8, the requested State shall provide the notification of its decision to the Prosecutor, who shall act, if necessary, in accordance with article 19, paragraph 10.¹

Article 91

Rule 9.11. Translation of documents accompanying request for surrender

For the purposes of article 67, paragraph 1 (a), and in accordance with rule 5.15 (a), the request under article 91 shall be accompanied, as appropriate, by a translation of the warrant of arrest or of the judgement of conviction and by a translation of the text of any relevant provisions of the Statute, in a language that the person fully understands and speaks.

Article 92

Rule 9.12. Time limit for submission of documents after provisional arrest

For the purposes of paragraph 3 of article 92, the time limit for receipt by the requested State of the request for surrender and the documents supporting the request shall be 60 days from the date of the provisional arrest.

¹ The original draft of this rule provided that the Court could ask a requested State how it had decided to proceed on the competing request for extradition. This part of the rule was deleted on the basis that the Court could already do this as part of its consultations with the requested State.

Rule 9.13. Transmission of documents supporting the request

When a person has consented to surrender in accordance with the provisions of article 92, paragraph 3, and the requested State proceeds to surrender the person to the Court, the Court shall not be required to provide the documents described in article 91 unless the requested State otherwise requests.

Article 93**Rule 9.14. Instruction on self-incrimination accompanying request for witness**

When making a request under article 93, paragraph 1 (e), with respect to a witness, the Court shall annex an instruction on the rule relating to self-incrimination (rule 6.9) to be provided to the witness in question, in a language that the person fully understands and speaks.

Rule 9.15. Transfer of a person in custody

(a) Transfer of a person in custody to the Court in accordance with article 93, paragraph 7, shall be arranged by the national authorities concerned in liaison with the Registrar and the authorities of the host State.

(b) The Registrar shall ensure the proper conduct of the transfer, including the supervision of the person while in the custody of the Court.

(c) The person in custody before the Court shall have the right to raise matters concerning the conditions of his or her detention with the relevant Chamber of the Court.

(d) In accordance with article 93, paragraph 7 (b), when the purposes of the transfer have been fulfilled, the Registrar shall arrange for the return of the person in custody to the requested State.

Rule 9.16. Assurance provided by the Court under article 93, paragraph 2

The Chamber of the Court dealing with the case, on its own motion or at the request of the Prosecutor, Defence or witness or expert concerned, can decide, after taking into account the views of the Prosecutor and the witness or expert concerned, to provide the assurance described in article 93, paragraph 2. If the Chamber of the Court considers it appropriate, the Chamber may invite and consider the views of the victims before deciding on the assurance.

Rule 9.17. Cooperation requested from the Court

(a) In accordance with article 93, paragraph 10, and consistent with article 96, *mutatis mutandis*, a State may transmit to the Court a request for cooperation or assistance to the Court, either in or accompanied by a translation into one of the working languages of the Court.

(b) Requests described in sub-rule (a) are to be sent to the Registrar, which shall transmit them, as appropriate, either to the Prosecutor or to the Chamber concerned.

(c) If protective measures within the meaning of article 68 have been adopted, the Prosecutor or Chamber, as appropriate, shall consider the views of the Chamber which ordered the measures and the relevant victim or witness, before deciding on the request.

(d) If the request relates to documents or evidence as described in article 93, subparagraph 10 (b) (ii), the Prosecutor or Chamber, as appropriate, shall obtain the written consent of the relevant State before proceeding with the request.

(e) When the Court decides to grant the request for cooperation or assistance from a State, the request shall be executed, insofar as possible, following the procedure outlined therein by the requesting State and permitting persons specified in the request to be present.

Article 98

Rule 9.18. Application of article 98

When a requested State notifies the Court that a request for surrender or assistance raises a problem of execution in respect of article 98, the requested State shall provide any information relevant to assist the Court in the application of article 98. Any concerned third State or sending State may provide additional information to assist the Court.

Article 101

Rule 9.19. Providing views on article 101, paragraph 1, issues

A person surrendered to the Court may provide views on a perceived violation of the provisions of article 101, paragraph 1.

Rule 9.20. Extension of the surrender

When the Court has requested a waiver of the requirements of article 101, paragraph 1, the requested State may ask the Court to obtain and provide the views of the person surrendered to the Court.
