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

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COMMITTEE OF THE WHOLE

ROLLING TEXT
PART 13. FINAL CLAUSES
Article 108
Settlement of disputes

Option 1

Any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court, and any dispute between two or more States Parties relating to the interpretation or application of this Statute which is not resolved through negotiations [within three months from their commencement] shall be referred to the Assembly of States Parties. The Assembly may itself seek to resolve the dispute or make recommendations on further means of settlement of the dispute, 1/ including referral to the International Court of Justice in conformity with the Statute of that Court.

Option 2

No article on dispute settlement.

1/ The view was expressed that the same procedure may be used for resolving disputes relating to the admissibility of reservations. It was also observed that a cross-reference in this article should be made to article 102 (Assembly of States Parties).

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Article 110

Amendments

1. After the expiration of [5] [10] years from the entry into force of this Statute, any State Party may propose amendments thereto. The text of any proposed amendment shall be submitted to the [Secretary-General of the United Nations], who shall promptly circulate it to all States Parties.
2. No sooner than three months from the date of notification, the next Assembly of States Parties shall, by a simple majority of those present and voting, decide on whether to take up the proposal. The Assembly may deal with the proposal directly or convene a special Review Conference if the issue involved so warrants.
3. The adoption of an amendment at a meeting of the Assembly of States Parties or at a Review Conference shall require a [3/4] majority of [all States Parties] [those present and voting, representing an absolute majority of all States Parties].²
4. Except as provided in paragraph 5, an amendment shall enter into force for all States Parties once it has been accepted by [5/6] of them.
5. Any amendment to article 5 of the Statute shall enter into force only for States Parties which have accepted the amendment, unless such amendment reflects customary international law and the Assembly or the Conference has decided that it shall come into force for all States Parties once it has been accepted by [5/6] of them.
6. If an amendment enters into force for all States Parties, any State Party which has not accepted it may withdraw from the Statute with immediate effect, notwithstanding paragraph 1 of article 115, but subject to paragraph 2 of article 115, by giving notice no later than one year after the entry into force of such amendment.
7. [The Secretary-General of the United Nations] shall circulate any amendment adopted at a meeting of the Assembly of States Parties or a Review Conference to all States Parties.

²Depending upon how article 102 is finally resolved, it may be necessary to include references here and in article 110 bis to the need to make every effort to reach decisions by consensus.

Article 110 bis

Amendments to provisions of an institutional nature

1. Amendments to provisions of the Statute which are of an exclusively institutional nature [namely, articles 35, 36, 37, 38, 39, 40, paragraphs 1 to 4 and 8 to 10 of article 43, 44, 45, 49, 50, 51, 52, 53 and 72] may be proposed at any time, notwithstanding paragraph 1 of article 110, by any State Party. The text of any proposed amendment shall be submitted to the [Secretary-General of the United Nations] who shall promptly circulate it to all States Parties.

2. Amendments under this article shall be adopted by the Assembly of States Parties or, where it proves more practicable by a Review Conference, by a [3/4] majority of [all the States Parties] [those present and voting, representing an absolute majority of all States Parties]. Such amendments shall enter into force for all States Parties [6] months after their adoption by the Assembly or, as the case may be, by the Conference.

Article 111 ³
Review of the Statute

1. [...] years after the entry into force of this Statute the [Secretary-General of the United Nations] shall convene a Review Conference of the States Parties to review and to consider any amendments to this Statute which may be necessary in the interests of justice, fairness and efficiency. Such review may include but is not limited to the catalogue of crimes contained in article 5.
2. At Any time thereafter, at the request of a State Party and for the purposes set out in paragraph 1, the [Secretary-General of the United Nations] shall, upon the approval by a simple majority of the States Parties, convene a Review Conference of the States Parties.
3. The provisions of paragraphs 3 to 7 of article 110 shall apply to any amendment of the Statute resulting from a Review Conference.

³Some delegations proposed that articles 110 and 111 be merged.

Article 112

Signature, ratification, acceptance, approval or accession

1. This Statute shall be open for signature by all States in Rome, at the headquarters of the Food and Agriculture Organization of the United Nations on [17 July 1998]. Thereafter, it will remain open for signature in Rome at the Ministry of Foreign Affairs of Italy until [17 October 1998]. After that date, the Statute shall remain open for signature in New York, at United Nations Headquarters, until 31 December 2000.
2. This Statute is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.
3. This Statute shall be open to accession by all States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

[Article 113]

Early activation of principles and rules of the Statute

Pending the entry into force of the Statute, States that have signed the Statute shall, in accordance with applicable principles of international law, refrain from acts which would defeat the object and purpose of the Statute. To this end, in ensuring the international prosecution and suppression of crimes of international concern, States should pay due regard to the relevant principles and provisions contained in the Statute, including in the performance of their responsibilities in competent organs of the United Nations, with a view to accelerating the achievement of the shared goal of establishing the Court.]

Article 115

Withdrawal

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.
2. A State shall not be discharged by reason of its withdrawal from the obligations arising from the Statute while it was a Party to this Statute, including any financial obligations which may have accrued. Nor shall the withdrawal affect the duty of that State to cooperate with the Court in connection with criminal investigations and proceedings commenced under this Statute prior to the date at which the withdrawal becomes effective for that State; nor shall it prejudice in any way the continued consideration of any matter which is already under consideration by the Court prior to the date at which the withdrawal becomes effective.

Article 116
Authentic texts

The original of this Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Statute.

DONE at Rome, this 17th day of July 1998
