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23 August 1996

ORIGINAL: ENGLISH

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

PROPOSAL SUBMITTED BY SINGAPORE

Introductory notes

1. All references are to the compilation of proposals dated 22 August 1996.
2. The delegation of Singapore has yet to form a firm view on the issues raised. The purpose of this proposal is to flag them for the Preparatory Committee's consideration.

Proposed additions

1. At the end of page 17 (art. 51, para. 5: Limitations on obligation; bases for denial of requests; assistance pursuant to conditions), add the following:

[A requested State party may deny a request for assistance, in whole or in part, if compliance with the request would put it in breach of an existing [international law] [treaty] obligation undertaken to another [State] [non-State party].]

Footnote [No. ###]:

Consideration should be given to the relationship between the obligations of States parties to cooperate with the Court and their other existing but inconsistent international law obligations, e.g., arising from bilateral extradition treaties, the Vienna Convention on Diplomatic Relations 1961 etc.

If a breach of another international law obligation is a ground for denying assistance, what is its precise scope?

- (a) Is it confined to obligations owed to non-States parties only? As between States parties to the International Criminal Court,

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participation in the Statute could override earlier inconsistent treaty obligations (see article 30 of the Vienna Convention on the Law of Treaties 1969) but would it be desirable to have an express provision in the Statute stating so?

- (b) Is it confined to obligations arising out of treaties only? and
- (c) Does it cover requests for arrest and transfer (e.g., requests for the surrender of a foreign diplomat accredited to the requested State party) or only requests for other forms of assistance (e.g., search and seizure on diplomatic premises)?

2. On page 24 (art. 53: Surrender of accused or convicted persons to the Court), before the section on "Competing [parallel requests from the Court and State(s)]", add the following:

[A requested State party may deny a request for arrest or surrender if compliance with the request would put it in breach of an existing [international law] [treaty] obligation undertaken to another [State] [non-State party].]

Footnote:

See footnote [No. ###] above.

3. On pp. 24-25, under the section on "Competing [parallel requests from the Court and State(s)]", add the following footnote:

This issue may be considered as part of the wider question of whether a State party can rely on an existing but inconsistent international law obligation to deny such a request, see footnote [No. ###] above.
