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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  
Working Group on Applicable Law

REPORT OF THE WORKING GROUP ON APPLICABLE LAW

I. INTRODUCTION

1. At its 26th meeting, on 8 July 1998, the Committee of the Whole decided to refer to the Working Group on Applicable Law, under the chairmanship of Per Saland (Sweden), the following article: article 20 (Applicable law).
2. The Working Group held two meetings, on 10 and 11 July 1998, to consider article 20 of Part 2. The Working Group herewith transmits provisions of that article to the Committee of the Whole for its consideration.
3. The remaining provision will be transmitted at a later stage.

GE.98-71964 (E)

ROM.98-3098

II. TEXT OF DRAFT ARTICLES

Article 20

Applicable law

1. The Court shall apply:

(a) In the first place, this Statute and its Rules of Procedure and Evidence; <sup>1</sup>

(b) In the second place, where appropriate, applicable treaties and the principles and rules of international law, <sup>2</sup> including the established principles of the international law of armed conflict;

(c) Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, <sup>3</sup> the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards. <sup>4</sup>

2. The Court may apply principles and rules of law as interpreted in its previous decisions.

3. pending

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<sup>1</sup>Subject to a decision on whether the rules of Procedure and Evidence should be an integral part of the Statute, as annexes or otherwise, or not. If a decision is taken to include elements of crimes, this will be reflected accordingly in paragraph 1 (a).

<sup>2</sup>It is understood that the term "international law" means public international law.

<sup>3</sup>Some delegations were of the view that the phrase "including, as appropriate" should be replaced by the word "especially".

<sup>4</sup>Some delegations express the view that, as a matter of principle, no reference to any national laws of States should be made. The Court ought to derive its principles from a general survey of legal systems and their respective national laws.