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Press Release  
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PROPOSED INTERNATIONAL CRIMINAL COURT SHOULD BE OPERATIONAL  
BEFORE TURN OF CENTURY, PREPARATORY COMMITTEE TOLD

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An additional year of preparatory work should be sufficient to prepare an international conference of plenipotentiaries to establish an international criminal court, the representative of France told the Preparatory Committee on the establishment of the court this morning as it discussed new proposals pertaining to topics raised at its previous session.

Suggesting that the court should enter into operation before the turn of the century, the representative of France went on to say that the Preparatory Committee should proceed with care to establish a universal court which was as widely adhered to as possible. The proposed court should be a last resort -- a "sword of Damocles" hanging over those who committed horrific crimes in the presumption that they enjoyed immunity from their own national judicial systems. It should only concern itself with "hardcore crimes", leaving to the Security Council the job of determining what constituted aggression.

The representative of Japan said that the international criminal court should define war crimes in a way that everyone could understand. Broadly speaking, the prosecution of war crimes should focus on combatants. Events in non-international conflicts should be excluded from prosecution and dealt with in national jurisdictions.

According to the representative of Germany, the "consent requirement" of a draft proposal by France (by which court prosecution would require the consent of States on whose territory serious international crimes were committed) could destroy the credibility of the proposed court by allowing perpetrators to escape prosecution. "Imagine what would have happened to the ad hoc tribunals for the former Yugoslavia and Rwanda if such a provision had existed", he said.

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Under the concept of complementarity between national jurisdictions and the

international criminal court, Switzerland said the latter should exercise jurisdiction only if national systems were incapable, or refused to act. In such cases, it was essential to ensure that the international body automatically "pick up the slack" -- the court should not be considered optional.

The representative of Croatia asked what would happen to prosecutions pending before the International Criminal Tribunal for the Former Yugoslavia once the international court entered into force. The United States expressed the view that United Nations ad hoc tribunals should continue their work for as long as necessary. The criminal court would not have retroactive jurisdiction.

Regarding the principle of complementarity, the representative of the United States went on to say that several countries that had recently suffered from core crimes -- including Argentina, Chile, El Salvador, Haiti, Ethiopia, South Africa and Cambodia -- were going through reconciliation processes. What would be the role of the court, he wondered, if "sham amnesties" were granted, as had been the case in several of those countries?

The description of all crimes under the proposed court's jurisdiction should be described precisely, said the representative of Belize. The statute should also include "treaty crimes" and establish the minimum parameters for such crimes. Denmark commented that the idea of adding treaty crimes to the court statute had been supported widely at previous sessions of the Preparatory Committee. Crimes against United Nations and associated personnel should be included in the inherent jurisdiction of the court.

The representative of Egypt said that the crime of aggression was far too serious to remain outside the jurisdiction of the international criminal court. Global criminal terrorism should also be included in the court jurisdiction.

The question of good faith on the part of national criminal jurisdictions was the essential "litmus test" that should be applied regarding the principle of complementarity, said the representative of Singapore. To trigger action by the international court, national jurisdictions should manifestly refuse to proceed with prosecutions.

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By the terms of the draft statute as it stood, he continued, it would be virtually impossible for the international criminal court to proceed with a

criminal prosecution without the blessing of the Security Council. The present draft required that when the Council was seized of a matter under Chapter VII of the Charter, the court could not prosecute without a decision of the Council. He proposed that, on the contrary, the court be free to prosecute unless the Council decided that it should not.

The representative of New Zealand concurred with that view. She also introduced a proposal by which States parties would review the legal status of the court statute, automatically, upon the introduction in the General Assembly of any proposal to amend the United Nations Charter. That action would be undertaken with a view to including the statute in that amendment.

The Preparatory Committee will meet at 3:30 p.m. today to continue its discussion.

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