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STATEMENT

United States Delegation to the Preparatory Committee
on the
Establishment of an International Criminal Court

March 23, 1998

The United States is deeply concerned that at this late stage of the proceedings of the Preparatory Committee, certain fundamental tenets of International Humanitarian Law applicable to non-international armed conflict are still being questioned. It would be regrettable if, before Rome, the Preparatory Committee could not reach an understanding on the deletion of a number of brackets.

To facilitate our progress in Rome, the United States strongly believes that the bracketed text "in armed conflict" should be deleted from the definition of crimes against humanity (paragraph 1, on page 32 of the Zutphen draft). Contemporary international law makes it clear that no war nexus for crimes against humanity is required. (The United States distributed a paper examining this issue on March 25, 1996.) The United States believes that crimes against humanity must be deterred in times of peace as well as in times of war and that the ICC Statute should reflect this principle.

Section C of the definition of war crimes (on page 28 of the Zutphen draft), which incorporates common Article 3 of the Geneva Conventions, is currently bracketed. In our view, it is essential that those brackets be removed. The United States strongly believes that serious violations of the elementary customary norms reflected in common Article 3 should be the centerpiece of the ICC's subject matter jurisdiction with regard to non-international armed conflicts.

Finally, the United States urges that there should be a

section, in addition to Section C, covering other rules regarding the conduct of hostilities in non-international armed conflicts. It is good international law, and good policy, to make serious violations of at least some fundamental rules pertaining to the conduct of hostilities in non-international armed conflicts a part of the ICC's jurisdiction.

The United States is eager to work with other delegations to build strong consensus on these matters.