

25 March 1998

Original: English

**Preparatory Committee on the Establishment
of an International Criminal Court**

16 March-3 April 1998

Working Group on Procedural Matters

Proposal submitted by Argentina and Germany

Article 46

Information submitted to the Prosecutor

1. Upon receipt of information relating to the commission of a crime under Article 5, submitted by victims, associations on their behalf, regional or international organizations or any other reliable source, the Prosecutor shall analyse the seriousness of the information. For this purpose, he or she may seek additional information from States, organs of the United Nations, non-governmental organizations, victims or their representatives or other sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules.

2. If the Pre-Trial Chamber, upon examination of the request and the accompanying material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, having regard to Article 11, it shall authorize the commencement of the investigation. This shall be without prejudice to subsequent determinations by the Court as to jurisdiction and admissibility of the case pursuant to Article 12.

The refusal of the Pre-Trial Chamber to authorize the investigation shall not preclude the presentation of a subsequent request by the Prosecutor based on new facts or evidence pertaining to the same situation.

3. If, after the preliminary examination referred to in (1), the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, he or she shall inform those who provided the information. This shall not preclude the Prosecutor from considering further information submitted in accordance with (1) pertaining to the same situation in the light of new facts or evidence.

