The U.S. delegation recommends the following amendments to the ILC's draft statute for an international criminal court with respect to Articles 23 and 25 thereof. Our statement about the "trigger mechanism" on April 3 explained the rationale behind these proposed amendments. (The following proposed amendments supplement our earlier proposed amendments to Article 26 and are intended to respond to the Chairman's compilation of proposed amendments to Articles 23 and 25 dated April 9, 1996.)

A. Revise Article 23 to read as follows:

Article 23

Action by the Security Council

1. Notwithstanding article 21, the Court has jurisdiction in accordance with this Statute with respect to crimes specified in article 20 as a consequence of the referral of a situation to the Court by the Security Council and in accordance with the terms of such referral.

2. No prosecution may be commenced under this Statute arising from a dispute or situation pertaining to international peace and security or an act of aggression which is being dealt with by the Security Council without the prior consent of the Security Council.

[The U.S. opposes inclusion of "aggression" in the core crimes listed in article 20. However, if "aggression" were to be included in article 20, then the retention of the original article 23(2) of the ILC draft statute would be necessary, with the re-numbering of the above-stated sub-paragraph (2) as article 23(3).]

B. Revise Article 25 as follows:
Article 25

Complaint

1. A State party which accepts the jurisdiction of the Court under article 22 with respect to a crime may lodge a complaint that refers a situation to the Prosecutor as to which such a crime appears to have been committed and requesting that the Prosecutor investigate the situation for the purpose of determining whether one or more specific persons should be charged with commission of such crime.

[An alternative would be to require at least one other State party which accepts the jurisdiction of the Court under article 22 with respect to the same crime to join in the complaint and affirm that in their joint opinion the crime is a most serious one of interest to the international community as a whole.]

2. As far as possible a complaint shall describe

   (a) the facts which indicate a crime within the jurisdiction of the Court has been committed,

   (b) the specific crime or crimes which the complainant State believes have been committed,

   (c) the identity and location of any persons suspected of committing such crimes, and the factual basis therefore,

   (d) a description of evidence or believed sources of evidence pertinent to the investigation, and

   (e) whether the complainant State or other States may be investigating or prosecuting the matter.

The complainant State may request or the Prosecutor may require that the complaint or any part thereof remain confidential pending the Prosecutor's review.

3. In a case to which article 23(1) applies, a complaint is not required for the initiation of an investigation by the Prosecutor.