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of an International Criminal Court**

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COMMITTEE OF THE WHOLE

PROPOSAL SUBMITTED BY THE UNITED STATES OF AMERICA FOR ARTICLE 25

In addition to other forms of responsibility for crimes under this Statute,

- (a) A commander is criminally responsible for crimes under this Statute committed by forces under his or her command and effective control as a result of the commander's failure to exercise properly this control where:
- (i) The commander either knew or, owing to the circumstances at the time, should have known, that the forces were committing or intending to commit such crimes; and
 - (ii) The commander failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission [or punish the perpetrators thereof];
- (b) A civilian superior is criminally responsible for crimes under this Statute committed by subordinates under his or her authority where:
- (i) The superior knew that the subordinates were committing or intending to commit a crime or crimes under this Statute;
 - (ii) The crimes concerned activities that were within the official responsibility of the superior;
 - (iii) The superior had the ability to prevent or repress the crime or crimes; and
 - (iv) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission.
