



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA VOTES AND PROCEEDINGS

THURSDAY, 27 MAY, 2004

1. The House met at 10:41 a.m. Mr Speaker read Prayers.
2. **Votes and Proceedings:**
Mr Speaker announced that he had examined and approved the Votes and Proceedings of Wednesday, 26 May, 2004.
By unanimous consent, the Votes and Proceedings were adopted.
3. **Ratification of Treaty:**
Motion made and Question proposed, that the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and other Resources in Areas of the Exclusive Economic Zone of the Two States and for Purposes Connected Therewith, 2003 be now ratified (Hon. Abdul Ningi).
Question put and agreed to.
Treaty ratified without amendment.
4. **Ratification of Treaty:**
Motion made and Question proposed, that the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Convention on the Prohibition of Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction and for Purposes Connected Therewith, 2004 be now ratified (Hon. Abdul Ningi).
Question put and agreed to.
Treaty ratified without amendment.
5. **Messages from the President, Commander-in-Chief of the Federation:**
Mr Speaker read the following Messages from the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria:

(i)



**PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA**

PRES/134

26 May, 2004.

The Honourable Speaker,
House of Representatives,
National Assembly Complex,
Three-Arms Zone,
Asokoro, Abuja.

Dear Hon. Speaker,

PRESENTATION OF A BILL

I forward herewith, for consideration and passage into law by the House, the attached Bill for an Act to enable effect to be given in the Federal Republic of Nigeria to the Statute of the West African Bank and matters connected therewith.

While I hope that the Bill will receive prompt attention of Honourable Members of the House, please accept the assurances of my highest consideration.

Yours sincerely,

(Signed)
OLUSEGUN OBASANJO

(ii)



**PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA**

PRES/134

26 May, 2004.

The Honourable Speaker,
House of Representatives,
National Assembly Complex,
Three-Arms Zone,
Asokoro, Abuja.

Dear Hon. Speaker,

PRESENTATION OF A BILL

I forward herewith, for consideration and passage into law by the House, the attached Bill for an Act to enable effect to be given in the Federal Republic of Nigeria to the International Convention for the Safety of Life at the Sea 1974 as amended and for purposes connected therewith.

While I hope that the Bill will receive prompt attention of Honourable Members of the House, please accept the assurances of my highest consideration.

Yours sincerely,

(Signed)
OLUSEGUN OBASANJO

6. **State of Emergency (Plateau State) Proclamation: Emergency Powers Regulations:**
Motion made and Question proposed, that this House do consolidate and debate the State of Emergency (Plateau State) Proclamation: Emergency Powers Regulations sought by Mr President (Hon. Abdul Ningi).

Debate:

Emergency Powers Regulations referred to the Joint Committee on Rules and Business, Justice and Judiciary: to be reported Tuesday, 1 June, 2004.

7. **A Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Extradition Treaty Between the Federal Republic of Nigeria and the Republic of South Africa and for Purposes Connected Therewith, 2003 (Committee of Whole):**
Motion made and Question proposed, That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Extradition Treaty Between the Federal Republic of Nigeria and the Republic of South Africa and for Purposes Connected Therewith, 2003 be now read the Second Time (Hon. Abdul Ningi).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty, agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE EXTRADITION TREATY BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND THE REPUBLIC OF SOUTH AFRICA AND FOR PURPOSES CONNECTED THEREWITH

WHEREAS the Extradition Treaty between the Federal Republic of Nigeria and the Republic of South Africa was signed by the Vice President of the Federal Republic of Nigeria and the Deputy President of the Republic of South Africa;

AND WHEREAS the Government of the Federal Republic of Nigeria has by a decision duly reached in accordance with her constitutional process ratified the Extradition Treaty between the Federal Republic of Nigeria and the Republic of South Africa on 30th November, 2002; *(Hon. Abdul Ningi) — Agreed to.*

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Extradition treaty between the Federal Republic of Nigeria and the Republic of South Africa; *(Hon. Abdul Ningi) — Agreed to.*

Question that the Preamble be the Preamble to the Bill, put and agreed to.

NOW THEREFORE be it enacted by the National Assembly of the Federal Republic of Nigeria as follows—

Clause 1: Enforcement of the Extradition Treaty between the Federal Republic of Nigeria and the Republic of South Africa.

As from the commencement of this Act, the provisions of the Extradition Treaty between the Federal Republic of Nigeria and the Republic of South Africa which are set out in the Schedule to this Act shall, subject as there under provided have the force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria *(Hon. Abdul Ningi) — Agreed to.*

Question that Clause 1 stand part of the Bill, put and agreed.

Clause 2: Short title.

This Act may be cited as the Extradition Treaty between the Government of the Federal Republic of Nigeria and the Government of the Republic of South Africa (Ratification and Enforcement) Bill, 2003 *(Hon. Abdul Ningi) — Agreed to.*

Question that Clause 2 stand part of the Bill, put and agreed to.

SCHEDULE

EXTRADITION TREATY BETWEEN THE FEDERAL REPUBLIC OF NIGERIA
AND THE REPUBLIC OF SOUTH AFRICA

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EXTRADITION TREATY BETWEEN THE FEDERAL REPUBLIC OF NIGERIA
AND THE REPUBLIC OF SOUTH AFRICA

The Government of the Federal Republic of Nigeria and the Government of the Republic of South Africa,
(hereinafter referred to as "the Contracting States");

Desiring to enhance effective cooperation between the two States in the suppression of crime and, for that purpose, to conclude a treaty for the extradition of offenders, (Hbn. Abdul Ningo) — Agreed to.

Question that this Schedule be the Schedule to the Treaty, put and agreed to.

HAVE AGREED as follows:

ARTICLE 1—OBLIGATION TO EXTRADITE

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offence (Hon. Abdul Ningi) — Agreed to.

Question that the provision in Article 1 stand part of the Treaty, put and agreed to.

ARTICLE 2—EXTRADITABLE OFFENCES

1. An offence shall be an extraditable offence if it is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year, or by a more severe penalty.
2. An offence shall also be an extraditable offence if it consists of attempting or conspiring to commit, aiding, abetting, inducing, counselling or procuring the commission of, or being an accessory before or after the fact to, any offence contemplated in paragraph 1.
3. For the purposes of this article, an offence shall be an extraditable offence whether or not the laws of the Contracting States place the offence within the same category of offences or describe the offence by the same terminology.
4. If an offence has been committed outside the territory of the Requesting State, extradition shall be granted where the laws of the Requested State provide for the punishment of an offence committed outside its territory in similar circumstances. Where the laws of the Requested State do not so provide, the executive authority of the Requested State may, in its discretion, grant extradition.
5. Extradition shall also be granted in respect of a person convicted of but not yet sentenced, or convicted of and sentenced for an offence as contemplated in this article, for the purpose of sentence, or for enforcing such sentence or the remaining portion thereof, as the case may be.
6. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control, or other revenue matters, extradition may not be refused on the ground that the law of the Requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty, or exchange regulation of the same kind as the law of the Requesting State.
7. Where extradition has been granted for an extraditable offence, it shall also be granted for any other offence specified in the request even if the latter offence is punishable by less than one year's deprivation of liberty, provided that all other requirements of extradition are met (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 2 stand part of the Treaty, put and agreed to.

ARTICLE 3—OPTIONAL GROUNDS FOR EXTRADITION

1. Extradition shall be granted unless the offence for which extradition is sought is punishable by death under the laws of the Requesting State, and is not punishable by death under the laws of the Requested State and the Requested State may refuse extradition unless the Requesting State provides assurances that the death penalty will not be imposed or, if imposed, will not be carried out.
2. In instances in which a Requesting State provides an assurance in accordance with this Article, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.
3. Extradition may be refused unless the Requesting State undertakes or gives such assurance as considered sufficient by the Requested State that the person sought will not be—
 - (a) detained without trial;
 - (b) tortured in any way; and
 - (c) treated in a cruel, inhuman or degrading way (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 3 stand part of the Treaty, put and agreed to.

ARTICLE 4—NATIONALITY

Extradition shall not be refused on the ground that the person sought is a citizen or national of the Requested State (Hon. Abdul Ningi) — Agreed to.

Question that the provision in Article 4 stand part of the Treaty, put and agreed to.

ARTICLE 5—POLITICAL AND MILITARY OFFENCES

1. Extradition shall not be granted if the offence for which extradition is requested is an offence of a political character.
2. For the purposes of this Treaty, the following shall not be considered to be offences of a political character—
 - (a) The murder or other willful crime against the person of a Head of State of one of the Contracting States, or a member of the Head of State's family;
 - (b) an offence for which both contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution,
 - (c) murder;
 - (d) an offence involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage; and
 - (e) attempting or conspiring to commit, aiding, abetting, inducing, counselling or procuring the commission of, or being an accessory before or after the fact to such offences.
3. Despite paragraph 2 of this article, extradition shall not be granted if the executive authority of the Requested State is of the opinion that there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's gender, race, nationality or political opinion.
4. The executive authority of the Requested State may refuse extradition for offences under military law which are not offences under ordinary criminal law (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 5 stand part of the Treaty, put and agreed to.

ARTICLE 6—PRIOR PROSECUTION

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offence for which extradition is requested.
2. Extradition shall not be precluded by the fact that the competent authorities in the Requested State have decided not to prosecute the person sought for the acts or omissions for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts; Provided such discontinuance does not have the effect of acquittal (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 6 stand part of the Treaty, put and agreed to.

ARTICLE 7—LAPSE OF TIME

Extradition shall not be granted when the prosecution has become barred by lapse of time according to the laws of the Requesting State (Hon. Abdul Ningi) — Agreed to.

Question that the provision in Article 7 stand part of the Treaty, put and agreed to.

ARTICLE 8—EXTRADITION PROCEDURES AND REQUIRED DOCUMENTS

1. All requests for extradition shall be made in writing and be submitted through the diplomatic channel.

2. The request for extradition shall be supported by—

- (a) documents, statements, or other types of information which describe the identity and probable location of the person sought;
- (b) a statement of the facts of the offence and the procedural history of the case;
- (c) a statement of the provisions of the law describing the essential elements of the offence for which extradition is requested;
- (d) a statement of the provisions of law describing the punishment for the offence;
- (e) a statement of the provisions of law describing any statute of limitation on the prosecution which shall be conclusive; and
- (f) the documents, statements or other information specified in paragraph 3 or 4 of this article, as the case may be.

3. A request for extradition of a person who is sought for prosecution shall also be supported by—

- (a) a copy of the warrant or order of arrest, or any document having the same force and effect, if any, issued by a judge or other competent authority;
- (b) a copy of the indictment, charge sheet or other charging document, if any; and
- (c) such information as would justify the commitment for trial of the person if the offence had been committed in the Requested State, but neither State is required to establish a prima facie case.

4. A request for extradition relating to a person who has been convicted of the offence for which extradition is sought shall also be supported by—

- (a) a copy of the judgment of conviction, if available, or a statement by a judicial officer or other competent authority that the person sought has been convicted or a certified copy of any record of conviction that reflects the charge and the conviction;
- (b) information establishing that the person sought is the person to whom the conviction refers; and
- (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out. (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 8 stand part of the Treaty, put and agreed to.

ARTICLE 9—ADMISSIBILITY OF DOCUMENTS

Any document submitted in support of an extradition request shall be received and admitted as evidence in extradition proceedings if such document has been certified as a true copy of the original by a magistrate, judge or any other person authorized to do so and such document has been authenticated by a statement by—

- (a) if the Requested State is the Republic of South Africa, the Attorney-General of the Federation and Minister of Justice of the Federal Republic of Nigeria; or
- (b) if the Requested State is the Federal Republic of Nigeria, the Minister responsible for Justice and Constitutional Development of the Republic of South Africa; or
- (c) a person designated by such Minister under the seal of that Minister, identifying the person who has signed the document, including that person's position or title or authenticated in any other manner provided for by the law of the Requested State. (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 9 stand part of the Treaty, put and agreed to.

ARTICLE 10—PROVISIONAL ARREST

1. In case of urgency, either Contracting State may request in writing the provisional arrest of the person sought pending presentation of the documents in support of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the Federal Ministry of Justice in the Federal Republic of Nigeria and the Department of Justice and Constitutional Development in the Republic of South Africa. The facilities of the International Criminal Police Organization (INTERPOL) may be used to transmit such a request. The application may also be transmitted by post, telegraph, telefax or any other means affording a record in writing.
2. The application for provisional arrest shall contain—
 - (a) a description of the person sought;
 - (b) the location of the person sought, if known;
 - (c) a brief statement of the facts of the case, including, if possible, the time and location of the offence;
 - (d) a description of the laws violated;
 - (e) a statement of the existence of a warrant of arrest or finding of guilt or judgment of conviction against the person sought;
 - (f) a statement that a request for extradition, and supporting documents, for the person sought will follow within the time period specified in this Treaty; and
 - (g) a description of the punishment that can be imposed or has been imposed for the offences.
3. On receipt of the application, the Requested State shall promptly take appropriate steps to secure the arrest of the person sought. The Requesting State shall be notified without delay of the disposal of its Application and the reasons for any denial.
4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of arrest pursuant to the application of the Requesting State if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required under Article 8.
5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 10 stand part of the Treaty, put and agreed to.

ARTICLE 11—DECISION AND SURRENDER

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel or in any other manner, of its decision on the request for extradition.
2. If the request is denied in whole or in part, the Requested State shall provide information as to the reasons for the denial of the request. The Requested State shall provide copies of competent judicial decisions upon request.
3. If the request for extradition is granted, the competent authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.
4. If the person sought is not removed from the territory of the Requested State within fifteen (15) days of the appointed date, the person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offence.
5. If circumstances beyond its control prevent either the Requested State or the Requesting State from respectively surrendering or receiving the person sought, the State so prevented shall notify the other according and seek to agree on a new date and, if necessary, a new place (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 11 stand part of the Treaty, put and agreed to. (b)

ARTICLE 12—TEMPORARY AND DEFERRED SURRENDER

1. If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the territory of the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by agreement in writing between the Contracting States.
2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed upon him or her, or any part thereof. (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 12 stand part of the Treaty, put and agreed to.

ARTICLE 13—REQUESTS FOR EXTRADITION BY MORE THAN ONE STATE

1. If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offence or for a different offence, the executive authority of the Requested State shall determine to which of those States it will surrender the person and shall inform the Requesting State of its decision. In making its decision, the Requested State shall consider whether the request was made pursuant to a treaty and all other relevant factors including but not limited to—

- (a) the time and place where the respective offence or offences were committed;
- (b) the gravity of the offence if the States are seeking the person for different offences;
- (c) the circumstances of the case including the nationality of the victim and the State against which the offence was directed;
- (d) the possibility of re-extradition between the Requesting States; and
- (e) the chronological order in which the requests were received from the Requesting States. (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 13 stand part of the Treaty, put and agreed to.

ARTICLE 14—SEIZURE AND SURRENDER OF PROPERTY

1. To the extent permitted under its law the Requested State may seize and surrender all articles, documents and evidence connected with the offence in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when extradition cannot be effected due to the death, disappearance or escape of the person sought.
2. Where the said property is liable to seizure or confiscation within the jurisdiction of the Requested State, the Requested State may temporarily surrender the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State within a fixed period of time or as soon as practicable. The Requested State may also defer surrender of such property if it is needed as evidence in criminal proceedings in the Requested State.
3. Any rights which the Requested State or third parties may have to such property shall be duly respected in accordance with the laws of the Requested State. (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 14 stand part of the Treaty, put and agreed to.

ARTICLE 15—RULE OF SPECIALTY

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for an offence—

- (a) for which extradition has been granted or any differently denominated offence based on the same facts on which extradition was granted, provided such offence is extraditable or is a lesser included offence;
 - (b) committed by him or her after his or her extradition; or
 - (c) for which the executive authority of the Requested State has consented to the person's detention, trial, or punishment.
2. For the purposes of paragraph (1) (c) of this Article—
- (a) the Requested State may require the submission of the documents specified in Article 8; and
 - (b) the person extradited may be detained by the Requesting State for ninety (90) days, or for such longer time as the Requested State may authorize, pending the processing of the request.
3. Paragraphs 1 and 2 of this Article shall not apply if the person extradited—
- (a) leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
 - (b) has had an opportunity to leave the territory of the Requesting State and has not done so within fifteen (15) days of final discharge in respect of the offence for which that person was extradited and the person was free to do so (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 15 stand part of the Treaty, put and agreed to.

ARTICLE 16—SURRENDER TO A THIRD STATE OR AN INTERNATIONAL TRIBUNAL

1. Subject to any multilateral agreement to which both Contracting States are parties, neither of the Contracting States may re-extradite or surrender a person extradited to it to any third State or International Tribunal for an offence committed by that person before his or her extradition unless—
- (a) the Requested State consents to that extradition or surrender; or
 - (b) the person has had an opportunity to leave the territory of the Requesting State and has not done so within fifteen (15) days of final discharge of the offence for which the person was extradited and the person was free to do so.
2. Paragraph 3 of Article 15 also applies to this article (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 16 stand part of the Treaty, put and agreed to.

ARTICLE 17—SIMPLIFIED SURRENDER

If the person sought consents to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible and without further proceedings (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 17 stand part of the Treaty, put and agreed to.

ARTICLE 18—TRANSIT

1. Either Contracting State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit may be made through the diplomatic channel or directly between the Department of Justice and Constitutional Development of the Republic of South Africa and the Federal Ministry of Justice of the Federal Republic of Nigeria and shall contain a description of the person being transported and a brief statement of the facts of the case. To the extent permitted by the law of the Contracting States, a person in transit may be detained in custody during the period of transit.
2. No authorization is required where air transportation is used and no landing is scheduled on the territory of the other Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit as provided in paragraph 1. That Contracting State shall detain the person to be transported until the request for

transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing. (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 18 stand part of the Treaty, put and agreed to.

ARTICLE 19—EXPENSES AND REPRESENTATION

1. The Requested State shall make all necessary arrangements for and meet the cost of any proceedings arising out of a request for extradition and shall advise, assist, represent, and appear in court on behalf of the Requesting State, and otherwise represent the interests of the Requesting State until the person whose extradition is sought is surrendered to a person nominated by the Requesting State.

(HON. ABUL NINGI)

2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person extradited.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty. (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 19 stand part of the Treaty, put and agreed to.

ARTICLE 20—CONSULTATION

The Federal Ministry of Justice of the Federal Republic of Nigeria and the Department of Justice and Constitutional Development in the Republic of South Africa may communicate with each other directly, through the diplomatic channel, or through the facilities of the International Criminal Police Organization (INTERPOL) in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty. (Hon. Abdul Ningi) — Agreed to.

Question that the provision in Article 20 stand part of the Treaty, put and agreed to.

ARTICLE 21—SCOPE OF APPLICATION

This Treaty shall apply to offences committed before or on, or after, the date this Treaty enters into force. (Hon. Abdul Ningi) — Agreed to.

(HON. ABUL NINGI)

Question that the provision in Article 21 stand part of the Treaty, put and agreed to.

ARTICLE 22—AMENDMENT

This Treaty may be amended by agreement in writing between the Contracting States and the amendments shall enter into force in accordance with the procedures set forth in Article 23 of this Treaty. (Hon. Abdul Ningi) — Agreed to.

Question that the provision in Article 22 stand part of the Treaty, put and agreed to.

ARTICLE 23—RATIFICATION, ENTRY INTO FORCE, AND TERMINATION

1. This Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible.

2. This Treaty shall enter into force immediately upon the exchange of the instruments of ratification.

3. Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State and the termination shall be effective six (6) months after the date of the receipt of such notice. Such termination shall not prejudice any request for extradition made prior to the date on which the termination becomes effective.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at on this day of, 2002 in two originals in the English language.

(Signed)

H.E. ATIKU ABUBAKAR
Vice-President
for the Government of the
Federal Republic of Nigeria

(Signed)

H.E. JACOB ZUMA
Deputy President
for the Government of the
Republic of South Africa

(Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 23 stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole consider the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Extradition Treaty Between the Federal Republic of Nigeria and the Republic of South Africa and for Purposes Connected Therewith, 2003 and approved the Preamble to the Enactment, Clauses 1 and 2 and Articles 1 - 23 of the Treaty.

Question that the House adopt the Report of the Committee of Whole, put and agreed to.

8. A Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Treaty Between the Federal Republic of Nigeria and the Republic of South Africa on Mutual Legal Assistance in Criminal Matters and for Purposes Connected Therewith, 2003 (Committee of Whole): Motion made and Question proposed, That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Treaty Between the Federal Republic of Nigeria and the Republic of South Africa on Mutual Legal Assistance in Criminal Matters and for Purposes Connected Therewith, 2003 be now read the Second Time (Hon. Abdul Ningi).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty, agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE TREATY BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND THE REPUBLIC OF SOUTH AFRICA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS AND FOR PURPOSES CONNECTED THEREWITH (HB. 2)

WHEREAS the Treaty on Mutual Legal Assistance in criminal matters between the Federal Republic of Nigeria and the Republic of South Africa was signed by the Vice-President of the Federal Republic of Nigeria and the Deputy President of the Republic of South Africa on 28th day of March, 2002 at Pretoria, South Africa; (Hon. Abdul Ningi) — Agreed to.

AND WHEREAS the Government of the Federal Republic of Nigeria has by a decision duly reached in accordance with her Constitutional process ratified the treaty on Mutual Legal Assistance in Criminal Matters between the Federal Republic of Nigeria and the Republic of South Africa on 30th November, 2002; (Hon. Abdul Ningi) — Agreed to.

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the treaty on Mutual Legal Assistance in Criminal Matters between the Federal Republic of Nigeria and the Republic of South Africa; (Hon. Abdul Ningi) — Agreed to.

Question that the Preamble be the Preamble to the Bill, put and agreed to.

NOW THEREFORE BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows—

Clause 1: Enforcement of the Treaty on Mutual Legal Assistance in Criminal Matters between the Federal Republic of Nigeria the Republic of South Africa.
As from the commencement of this Act, the provisions of the Treaty on Mutual Legal Assistance in Criminal Matters between the Federal Republic of Nigeria and the Republic of South Africa on Mutual Legal Assistance in Criminal Matters which are set out in the Schedule to this Act shall, subject as there under provided have the force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria (Hon. Abdul Ningi) — Agreed to.

Question that Clause 1 stand part of the Bill, put and agreed.

Clause 2: Short title
This Act may be cited as the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Federal Republic of Nigeria and the Government of the Republic of South Africa (Ratification and Enforcement) Bill, 2003 (Hon. Abdul Ningi) — Agreed to.

Question that Clause 2 stand part of the Bill, put and agreed.

SCHEDULE

TREATY BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA AND THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ON "MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS"

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**TREATY BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA
AND THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA**

The Government of the Federal Republic of Nigeria and the Government of the Republic of, South Africa;

DESIRING to improve the effectiveness of the law enforcement authorities of both countries in the investigation, prosecution, and prevention of crime through cooperation and mutual legal assistance in criminal matters;

CONSIDERING in particular the need to fight against the illicit production of and trafficking in narcotic drugs and other controlled substances; (*Hon. Abdul Ningi*) — Agreed to

Question that this Schedule be the Schedule to the Treaty, put and agreed to.

HAVE AGREED as follows—

ARTICLE 1—SCOPE OF ASSISTANCE

1. The Contracting States shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution and prevention of crimes, and in proceedings related to criminal matters.
2. Such assistance shall include—
 - (a) taking the testimony or statements of persons;
 - (b) providing documents, records and articles of evidence;
 - (c) serving documents;
 - (d) locating and identifying persons;
 - (e) transferring persons in custody for testimony or other purposes;
 - (f) executing requests for searches and seizures;
 - (g) tracing, identifying, restraining or immobilizing criminally obtained assets;
 - (h) assisting in proceedings related to forfeiture, restitution and recovery or collection of fines; and
 - (i) any other form of assistance not prohibited by the laws of the requested State.
3. Assistance shall be provided without regard to whether the conduct which the subject of the investigation, prosecution, or proceedings in the requesting State would constitute a crime under the laws of the requested State.
4. This Treaty is intended solely for mutual legal assistance between the Contracting States. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 1 stand part of the Treaty, put and agreed to.

ARTICLE 2—CENTRAL AUTHORITIES

1. Each Contracting State shall designate a Central Authority to make and receive requests pursuant to this Treaty.
2. For the Government of the Republic of South Africa, the Central Authority shall be the Director-General, Department of Justice and Constitutional Development or a person designated by the Director-General. For the Government of the Federal Republic of Nigeria, the Central Authority shall be the Attorney-General of the Federation and the Minister of Justice or a person designated by the Attorney-General of the Federation and the Minister of Justice.
3. The Central Authorities shall communicate directly with one another for the purposes of this Treaty. Such communication may, in exceptional circumstances, be effected through the diplomatic channel or through the International Criminal Police Organisation (INTERPOL) (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 2 stand part of the Treaty, put and agreed to.

ARTICLE 3—LIMITATIONS ON ASSISTANCE

1. The Central Authority of the Requested State may deny assistance if—
 - (a) the request relates to a political offence;
 - (b) the request relates to an offence under military law which would not be an offence under ordinary criminal law;
 - (c) the execution of the request would prejudice the national security or any other essential interests of the requested State; or
 - (d) the request is not made in conformity with the Treaty.
2. For the purposes of paragraph 1 (a) of this article, the following offences shall not be considered political offences—
 - (a) the murder of, or other violent crime against, a Head of State or Deputy Head of State of the Requesting or Requested State or against a member of such person's family;
 - (b) an offence for which both the Requesting or Requested State have an obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their respective competent authorities for decision as to prosecution;
 - (c) murder;
 - (d) an offence involving kidnaping, abduction, or any other form of unlawful detention, including the taking of hostages; and
 - (e) attempting or conspiring to commit, aiding, abetting, inducing, counseling or procuring commission of, or being an accessory before or after the fact to, such offences.
3. Before denying assistance pursuant to this article, the Central Authority of the Requested State shall consult with the Central Authority of the Requesting State to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting State accepts assistance subject to those conditions; it shall comply with the conditions.
4. If the Central Authority of the Requested State determines the execution of a request would interfere with an ongoing criminal investigation or proceeding in that state, it may postpone execution or make execution subject to conditions determined necessary after consultation with the Central Authority of the Requesting State. If the Requesting State accepts the assistance subject to the conditions, it shall comply with the conditions.

5. If the Central Authority of the Requested State denies assistance, it shall inform the Central Authority of the Requesting State of the reasons for the partial or total denial or postponement of assistance (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 3 stand part of the Treaty, put and agreed to.

ARTICLE 4—FORM AND CONTENTS OF REQUESTS

1. A request for assistance shall be in writing except that the Central Authority of the Requested State may accept a request in another form in emergency situations. In any such case, the request shall be confirmed in writing within ten (10) days thereafter unless the Central Authority of the Requested State agrees otherwise. The request shall be in English.
2. The request shall include the following—
 - (a) the name of the authority conducting the investigation, prosecution or proceedings to which the request relates;
 - (b) a description of the subject matter and nature of the investigation, prosecution, or proceedings, including the specific crimes which relate to the matter, the stage reached in the proceedings and any dates for further proceedings;
 - (c) a description of the evidence, information or other assistance sought; and
 - (d) a statement of the purpose for which the evidence, information or other assistance is sought.
3. To the extent necessary and possible, a request shall also include the following—
 - (a) information on the identity and location of any person from whom evidence is sought;
 - (b) information on the identity and location of a person to be served, that person's relationship to the investigation, prosecution or proceedings, and the manner in which service is to be effected;
 - (c) information on the identity and whereabouts of the person to be located;
 - (d) a precise description of the place or person to be searched and of the articles to be seized;
 - (e) description of the manner in which any testimony or statement is to be taken and recorded, including any special requirements of the law of the Requesting State as to the manner of taking evidence relevant to its admissibility in that State;
 - (f) list of questions to be asked of a witness;
 - (g) description of any particular procedure to be followed in executing the request;
 - (h) information as to the allowances and expenses to which a person asked to in the Requesting State in connection with the request will be entitled,
 - (i) court order, if any, or a certified copy thereof, which is to be enforced and a statement that such order is final; and
 - (j) any other information which may be brought to the attention of the Requested State to facilitate its execution of the request (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 4 stand part of the Treaty, put and agreed to.

ARTICLE 5—EXECUTION OF REQUESTS

1. The Central Authority of the Requested State shall promptly execute the request or, when appropriate, shall transmit it to the authority having jurisdiction to do so. The competent authorities of the Requested State shall do everything in their power to execute the request. The courts of the Requested State shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.

2. The Central Authority of the requested State shall make all necessary arrangements for representation in that State on behalf of the requesting State in any proceedings arising out of a request for assistance.
3. Requests shall be executed in accordance with the laws of the Requested State, including the terms of this Treaty. However, the method of execution specified in the request shall be followed except insofar as it is prohibited by the laws of the requested State.
4. The Central Authority of the Requested State shall respond to reasonable inquiries by the Central Authority of the requesting State concerning progress in executing the request.
5. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the outcome of the execution of the request. Upon completion of a request the Requested State shall, unless otherwise agreed, return to the Requesting State the original request together with all information and evidence obtained indicating the place, date and time of execution.
6. To the extent possible all documents and records to be furnished pursuant to a request shall be complete and in an unedited form. Upon application of the Requesting State, the Requested State shall make every effort to furnish original documents and records (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 5 stand part of the Treaty, put and agreed to.

ARTICLE 6—CONFIDENTIALITY

1. Neither a request, including its contents, nor the information and materials supplied in response thereto shall be disclosed by a contracting State to a third State except as authorised by the other Contracting State.
2. The Requested State shall use its best efforts to keep confidential a request and its contents if such confidentiality is requested by the Central Authority of the Requesting State. If the request cannot be executed without breaching the requested confidentiality, the Central Authority of the Requested State shall so inform the Central Authority of the requesting State, which shall then determine whether the request should nevertheless be executed.
3. The Central Authority of the Requested State may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to terms and conditions it may specify. In that case, the Requesting State shall use its best efforts to comply with such terms and conditions (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 6 stand part of the Treaty, put and agreed to.

ARTICLE 7—AUTHENTICATION OR CERTIFICATION

Any document submitted in support of a request shall be received if such a document has been certified as a true copy of the original by a magistrate, judge or any other person authorized to do so and such document has been authenticated by a statement by—

- (a) if the requested State is the Republic of South Africa, the Attorney-General of the Federation and Minister of Justice of the Federal Republic of Nigeria; or
- (b) if the requested State is the Federal Republic of Nigeria, the Minister responsible for Justice and Constitutional Development of the Republic of South Africa, or a person designated by such Minister under the seal of that Minister, identifying the person who has signed the document, including that person's position or title or in any other manner provided for by the laws of the Requested State (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 7 stand part of the Treaty, put and agreed to.

ARTICLE 8—COSTS

1. The Requested State shall pay all costs relating to the execution of the request, except for the fees of expert witnesses, the costs of translation, interpretation, transcription and the allowances and expenses related to the traveling of persons pursuant to Articles 11, 13 and 14, which costs, fees, allowances and expenses shall be paid by the Requesting State.

2. If, during the execution of a request, it becomes apparent that fulfillment of the request will entail expenses of an extraordinary nature, the Central Authorities of the contracting States shall consult to determine the terms and conditions under which execution may continue (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 8 stand part of the Treaty, put and agreed to.

ARTICLE 9—LIMITATIONS ON USE

1. The Requesting State shall not use any information or evidence obtained under this entreaty in any investigation, prosecution, or proceedings other than that described in the request without the prior consent of the Requested State.
2. Information or evidence which has been made public in the Requesting State may thereafter be used for any purpose (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 9 stand part of the Treaty, put and agreed to.

ARTICLE 10—TESTIMONY OR EVIDENCE IN THE REQUESTED STATE

1. A person in the Requested State from whom testimony or evidence is requested pursuant to this Treaty shall be compelled, if necessary, to appear and testify or produce items, including documents, records and articles of evidence.
2. Upon request, the Central Authority of the Requested State shall furnish information in advance about the date and place of the taking of the testimony or evidence pursuant to this article.
3. The Requested State shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to question, directly or indirectly, the person giving the testimony or evidence.
4. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity or privilege under the laws of the Requesting State, the testimony or evidence shall nonetheless be taken and the claim made known to the Central Authority of the Requesting State for resolution by the authorities of that State (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 10 stand part of the Treaty, put and agreed to.

ARTICLE 11—TESTIMONY IN THE REQUESTING STATE

1. The Requested State, upon request that a person in that State appears and testifies in connection with an investigation, prosecution or proceedings in the Requesting State, shall invite that person to appear and testify in the Requesting State. The Requesting State shall indicate the extent to which the expenses will paid. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the response of the person.
2. A person appearing in the Requesting State pursuant to this article shall not be subject to service of process, or be detained or subjected to any restriction of personal liberty in the Requested State by reason of any acts or convictions which preceded his departure from the Requested State.
3. The safe conduct provided for in paragraph 2 of this article shall cease either fifteen (15) days after the Central Authority of the Requesting State has notified the Central Authority of the Requested State that the person's presence is no longer required, or if the person has left the Requesting State and voluntarily returned to it, whichever first occurs (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 11 stand part of the Treaty, put and agreed to.

ARTICLE 12—OFFICIAL RECORDS

1. The Requested State shall provide the Requesting State with copies of publicly available records, including documents or information in any form, in the possession of organs of State and Government Departments and Agencies in the requested State.

2. The Requested State may provide copies of any documents, records, or information which are in the possession of an organ of State or a Government Department or Agency in that State, but which are not publicly available, to the same extent and under the same conditions as such copies would be available to its own law enforcement or judicial authorities. The Requested State may deny a request pursuant to this paragraph entirely or in part (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 12 stand part of the Treaty, put and agreed to.

ARTICLE 13—TRANSFER OF PERSONS IN CUSTODY

1. A Requesting State may seek the temporary transfer of persons in custody in the Requested State for purposes of assistance under this Treaty.
2. A person in the custody of the Requested State whose presence is needed in the Requesting State for purposes of assistance under this Treaty, shall be transferred to the Requesting State for that purpose if the person consents and if the Central Authorities of both Contracting States agree.
3. A person in the custody of the Requesting State whose presence in the Requested State is needed for purposes of assistance under this Treaty may be transferred to the Requested State for that purpose if the person consents and if the Central Authorities of both Contracting States agree.
4. For the purpose of this article—
 - (a) the Receiving State shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorized by the Sending State;
 - (b) the Receiving State shall return the person transferred to the custody of the Sending State as soon as circumstances permit or as otherwise agreed by both Central Authorities;
 - (c) the Receiving State shall not decline on the basis of nationality to return a person transferred nor require the Sending State to initiate extradition proceedings for the return of the person transferred; and
 - (d) the person transferred shall receive credit for service of the sentence imposed in the Sending State for the time served while in the custody of the Receiving State (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 13 stand part of the Treaty, put and agreed to.

ARTICLE 14—TRANSIT OF PERSONS IN CUSTODY

1. The Requested State may authorize the transit through its territory of a person held in custody by a third State whose personal appearance has been requested by the Requesting State to give testimony or evidence or otherwise provide as assistance in an investigation, prosecution or proceedings.
2. Where such transit is authorized, the Requested State shall have the authority and the obligation to keep the person in custody during transit in accordance with the laws of the Requested State, including the terms of this Treaty (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 14 stand part of the Treaty, put and agreed to.

ARTICLE 15—IDENTIFICATION AND LOCATION OF PERSONS OR ITEMS

The Requested State shall use its best efforts to ascertain the identity or location of persons or items specified in the request (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 15 stand part of the Treaty, put and agreed to.

ARTICLE 16—SERVICE OF DOCUMENTS

1. The Requested State shall use its best efforts to effect service of any document transmitted to it for the purpose of service.

2. A request to effect service of summons shall be made to the Requested State not less than sixty (60) days before the date on which the appearance of a person is required. In urgent cases, the Requested State may waive the time requirement.
3. The Requested State shall return proof of service in the manner required by the Requesting State (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 16 stand part of the Treaty, put and agreed to.

ARTICLE 17—SEARCH AND SEIZURE

1. The Requested State shall execute a request for the search, seizure, and delivery of any item to the Requesting State if the request includes the information justifying such action under the laws of the Requested State.
2. Upon request, every official of the Requested State who has custody of a seized item shall certify, the continuity of custody, the identity of the item, and the integrity of its condition.
3. The Central Authority of the Requested State may require that the Requesting State agree to the terms and conditions deemed to be necessary to protect a third party interests in the item to be transferred (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 17 stand part of the Treaty, put and agreed to.

ARTICLE 18—RETURN OF DOCUMENTS, RECORDS AND ARTICLES OF EVIDENCE

The Central Authority of the Requesting State shall, upon request, as soon as possible return to the Requested State any documents, records, or articles of evidence furnished to it in the execution of a request (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 18 stand part of the Treaty, put and agreed to.

ARTICLE 19—ASSISTANCE IN FORFEITURE PROCEEDINGS

1. The Contracting States shall assist each other to the extent permitted by their respective laws in proceedings relating to—
 - (a) the restraint or immobilization of proceeds of crimes and instrumentalities or objects used in the commission of crimes;
 - (b) the confiscation or forfeiture of proceeds of crimes and instrumentalities or objects used in the commission of crimes;
 - (c) the recovery or collection of fines imposed by courts as sentences in criminal proceedings; and
 - (d) the compensation or restitution to victims of crime.
2. Such assistance shall include—
 - (a) the identifying, locating and assessing the value of assets believed to be the proceeds or instrumentalities of criminal activities and to be within the Requested State;
 - (b) the seizing and forfeiting of the proceeds and instrumentalities of criminal activities which are located in the Requested State;
 - (c) the invoking of the procedures of the Requested State for the recognition, confirmation, and enforcement of an order for the forfeiture of the proceeds or instrumentalities of criminal activities made by a court or other competent authority in the Requesting State; and
 - (d) the taking of measures to prevent any dealing in, transfer or disposal of, or the creation of any charge over assets, pending the determination of proceedings for the forfeiture of the proceeds and instrumentalities of criminal activities.

3. If the Central Authority of one Contracting State becomes aware of proceeds of crimes or instrumentalities or objects used in the commission of crimes that are located in the other State and may be forfeitable or otherwise subject to seizure under the laws of that State, it may so inform the Central Authority of the other State. If that other State has jurisdiction in this regard, it may present this information to its authorities for a determination whether any action is appropriate. Those authorities shall issue their decision in accordance with the laws of their country, and shall, through their Central Authority, report to the other State on the action taken.
4. The State that has custody over proceeds of crimes and instrumentalities or objects used in the commission of crimes shall dispose thereof in accordance with its laws. Either State may transfer all or part of such assets or property, or the proceeds of the sale thereof, to the other State, to the extent permitted under the transferring State's laws and upon such terms as it deems appropriate (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 19 stand part of the Treaty, put and agreed to.

ARTICLE 20—INFORMATION ON CRIMES, ARRESTS, CONVICTIONS AND DEPORTATIONS

1. If the Central Authority of one Contracting State becomes aware of criminal activities which are or may be committed within the jurisdiction of the other State, it may so inform the Central Authority of that other State.
2. The Requesting State may seek information from the Requested State regarding that State's arrest, conviction, or deportation of a national of the Requesting State when such information is needed in connection with an investigation, prosecution, or proceedings in the Requesting State.
3. The request shall indicate the purpose for which the information is requested and shall contain such information as is available to the Central Authority of the Requesting State as to the arrest, investigation, or other law enforcement action (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 20 stand part of the Treaty, put and agreed to.

ARTICLE 21—COMPATIBILITY WITH OTHER TREATIES

Assistance and procedures provided by this Treaty shall not prevent or restrict either of the Contracting States from granting any assistance under other applicable international conventions, arrangements, agreements, practice or under the laws of the Contracting States (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 21 stand part of the Treaty, put and agreed to.

ARTICLE 22—CONSULTATION

The Central Authorities shall consult, at times mutually agreed to by them, to promote the most effective implementation of this Treaty. They may also agree on such practical or other measures as may be necessary to facilitate the implementation of this Treaty (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 22 stand part of the Treaty, put and agreed to.

ARTICLE 23—APPLICATION

This Treaty shall apply to any assistance contemplated in Article 1, whether the acts were committed before, on, or after the date upon which this Treaty enters into force. Nothing in this Treaty shall be deemed to require or authorize any action by the Requested State that is contrary to the constitution of this Treaty (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 23 stand part of the Treaty, put and agreed to.

ARTICLE 24—AMENDMENT

This Treaty may be amended by agreement in writing between the Contracting States. Amendments shall enter into force in accordance with the procedures set forth in Article 25 of this Treaty (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 24 stand part of the Treaty, put and agreed to.

ARTICLE 25—RATIFICATION, ENTRY INTO FORCE AND TERMINATION

1. This Treaty shall be subject to ratification and the instruments of ratification shall be exchanged as soon as possible.
2. This Treaty shall enter into force upon the exchange of instruments of ratification.
3. Either State may terminate this Treaty by means of a written notice to the other State through the diplomatic channel. Termination shall take effect six (6) months following the date of receipt of such notice by the other State.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments have signed this Treaty.

DONE at Pretoria this 28th day of March, 2002 in two originals in the English language.

(Signed)
H.E. ATIKU ABUBAKAR
Vice-President
for the Government of the
Federal Republic of Nigeria

(Signed)
H.E. JACOB ZUMA
Deputy President
for the Government of the
Republic of South Africa (Hon. Abdul Ningi) —
Agreed to.

Question that the provisions in Article 25 stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole consider the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Treaty Between the Federal Republic of Nigeria and the Republic of South Africa on Mutual Legal Assistance in Criminal Matters and for Purposes Connected Therewith, 2003 and approved the Preamble to the Enactment, Clauses 1 and 2 and Articles 1 - 25 of the Treaty.

Question that the House adopt the Report of the Committee of Whole, put and agreed to.

9. **A Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Rome States of the International Criminal Court and for Purposes Connected Therewith, 2003 (Committee of Whole): Motion made and Question proposed, That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Rome States of the International Criminal Court and for Purposes Connected Therewith, 2003 be now read the Second Time (Hon. Abdul Ningi).**

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty, agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

**A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA
TO THE ROME STATES OF THE INTERNATIONAL CRIMINAL COURT
AND FOR PURPOSES CONNECTED THEREWITH**

WHEREAS the Rome Statute of the International Criminal Court was adopted by the United Nations at the Rome Conference held in July 1998; (Hon. Abdul Ningi) — *Agreed to.*

AND WHEREAS Nigeria was a signatory to the said Statute; (Hon. Abdul Ningi) — *Agreed to.*

AND WHEREAS the Government of the Federal Republic of Nigeria has by a decision duly reached in accordance with her constitutional process, ratified the said Statute; (*Hon. Abdul Ningi*) — *Agreed to.*

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Rome Statute of the International Criminal Court in Nigeria; (*Hon. Abdul Ningi*) — *Agreed to.*

NOW THEREFORE be it Enacted by the National Assembly of the Federal Republic of Nigeria as follows,

Clause 1: Enforcement of the Rome Statute of the International Criminal Court.
The provisions of the Rome Statute of the International Criminal Court which are set out in the Schedule to this Act, shall subject as thereunder provided, have jurisdiction in Nigeria and shall be given full recognition and effect in Nigeria (*Hon. Abdul Ningi*) — *Agreed to.*

Question that Clause 1 stand part of the Bill, put and agreed.

Clause 2: Short Title.
This Act may be cited as the Rome Statute of the International Criminal Court (Ratification and Jurisdiction) Bill, 2003 (*Hon. Abdul Ningi*) — *Agreed to.*

Question that Clause 2 stand part of the Bill, put and agreed.

SCHEDULE

THE STATES PARTIES TO THIS STATUTE

CONSCIOUS that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time;

MINDFUL that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity;

RECOGNISING that such grave crimes threaten the peace, security and well-being of the world;

AFFIRMING that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation;

DETERMINED to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes;

RECALLING that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes;

REAFFIRMING the purposes and Principles of the Charter of the United Nations, in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations;

EMPHASIZING in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict in the internal affairs of any State;

DETERMINED to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the International Community as a whole;

EMPHASIZING that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions;

RESOLVED to guarantee lasting respect for the enforcement of international justice (*Hon. Abdul Ningi*) — *Agreed to.*

Question that this Schedule be the Schedule to the Treaty, put and agreed to.

HAVE AGREED as follows:

ARTICLE 1—THE COURT

An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provision in Article 1 stand part of the Treaty, put and agreed to.

ARTICLE 2—RELATIONSHIP OF THE COURT WITH THE UNITED NATIONS

The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provision in Article 2 stand part of the Treaty, put and agreed to.

ARTICLE 3—SEAT OF THE COURT

1. The seat of the Court shall be established at the Hague in the Netherlands ("the host State").
2. The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf
3. The Court may sit elsewhere, whenever it considers it desirable, as provided in this Statute (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 3 stand part of the Treaty, put and agreed to.

ARTICLE 4—LEGAL STATUS AND POWERS OF THE COURT

1. The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.
2. The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement on the territory of any other State (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 4 stand part of the Treaty, put and agreed to.

ARTICLE 5—CRIMES WITHIN THE JURISDICTION OF THE COURT

1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:
 - (a) the crime of genocide,
 - (b) crimes against humanity;
 - (c) war crimes;
 - (d) the crime of aggression.
2. The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with Articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 5 stand part of the Treaty, put and agreed to.

ARTICLE 6—GENOCIDE

For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 6 stand part of the Treaty, put and agreed to.

ARTICLE 7—CRIMES AGAINST HUMANITY

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation or Forcible Transfer of population;
- (e) imprisonment or other severe deprivation or physical Liberty in violation of fundamental rules of international law;
- (f) torture;
- (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforce sterilization, or any other form of sexual violence of comparable gravity;
- (h) persecution against any identifiable group of collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) enforced disappearance of persons;
- (j) the crime of apartheid;
- (k) other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

- (a) "attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack;
- (b) "extreme deprivation" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
- (c) "enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

- (d) "deportation or forcible transfer of population" means forced displacement of the persons
 - (e) "torture" means the international infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
 - (f) "forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
 - (g) "persecution" means the international and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivist
 - (h) "the crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
 - (i) "enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of a State or a political Organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
3. For the purpose of this statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 7 stand part of the Treaty, put and agreed to.

ARTICLE 8—WAR CRIMES

- 2. The Court shall have jurisdiction in respect of war crimes in particular when committed as apart of a plan or policy or as part of a large-scale commission of such crimes.
- 2. For the purpose of this statute, "war crimes" means—
 - (a) grave breaches of the Geneva Conventions of 12 August, 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva convention:
 - (i) wilful killing;
 - (ii) torture or inhuman treatment including biological experiments;
 - (iii) wilfully causing great suffering, or serious injury to body or health;
 - (iv) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
 - (v) compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
 - (vi) wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trials;
 - (vii) unlawful deportation or transfer or unlawful confinement;
 - (viii) taking of hostages,

- (b) other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international armed, namely, any of the following acts—
- (i) intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - (ii) intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - (iii) intentionally directing attacks against personnel, installations, materials, units or vehicles involved in a humanitarian assistance or peace keeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflicts;
 - (iv) intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
 - (v) attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
 - (vi) killing or wounding a combatant who, having laid down his arms or having no longer means of defence has surrendered at discretion;
 - (vii) making improper use of a Flag of Truce, of the flag or of the Military Insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
 - (viii) the transfer, directly or indirectly, by the Occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
 - (ix) intentionally directing attacks against buildings dedicated to religion, education, art, science, or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
 - (x) subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
 - (xi) killing or wounding treacherously individuals belonging to the hostile nation or army;
 - (xii) declaring that no quarter will be given;
 - (xiii) destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
 - (xiv) declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
 - (xv) compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
 - (xvi) pillaging a town or place, even when taken by assault;

- (xvii) employing poison or poisoned weapons;
 - (xviii) employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
 - (xix) employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
 - (xx) employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this statute, by an amendment in accordance with the relevant provisions set forth in Articles 121 and 123;
 - (xxi) committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (xxii) committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 7, paragraph 2 (1), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
 - (xxiii) utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
 - (xxiv) intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law
 - (xxv) intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
 - (xxvi) conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities;
- (c) in the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August, 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
- (i) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - (ii) committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (iii) taking of hostages;
 - (iv) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable;
- (d) paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature;
- (e) other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

- (i) intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities
 - (ii) intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva conventions in conformity with international law;
 - (iii) intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the law of armed conflict;
 - (iv) intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
 - (v) pillaging a town or place, even when taken by assault;
 - (vi) committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 7, paragraph 2 (f), enforced, sterilization, and any other form of sexual violence also constituting a serious violation of Article 3 common to the four Geneva Conventions;
 - (vii) conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
 - (viii) ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - (ix) killing or wounding treacherously a combatant adversary;
 - (x) declaring that no quarter will be given;
 - (xi) subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
 - (xii) destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
- (f) paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organised armed groups or between such groups.
3. Nothing in paragraphs 2 (c) and (d) shall affect the responsibility of a government to maintain or reestablish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 8 stand part of the Treaty, put and agreed to.

ARTICLE 9—ELEMENTS OF CRIMES

1. Elements of Crimes shall assist the Court in the interpretation and application of Articles 6, 7 and 8. They shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.
2. Amendments to We Elements of Crimes may be proposed by:
 - (a) any State Party;
 - (b) the judges acting by an absolute majority;

- (c) the prosecutor.
- 2. Such amendments shall be adopted by a two-thirds majority of the members of the assembly of States Parties.
- 3. The Elements of Crimes and amendments thereto shall be consistent with this Statute (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 9 stand part of the Treaty, put and agreed to.

ARTICLE 10

Nothing in this part shall be interpreted as the limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 10 stand part of the Treaty, put and agreed to.

ARTICLE 11—JURISDICTION RATIONE TEMPORIS

- 1. The court has jurisdiction only with respect to crimes committed after the entry into force of this Statute.
- 2. If a State becomes a party to this Statute after its entry into force, the court may exercise its jurisdiction only with respect to crimes committed after the entry into force of this Statute for that State, unless that State has made a declaration under Article 12, paragraph 3 (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 11 stand part of the Treaty, put and agreed to.

ARTICLE 12—PRECONDITIONS TO THE EXERCISE OF JURISDICTION

- 1. A State which becomes a party to this Statute thereby accepts the jurisdiction of the court with respect to the crimes referred to in Article 5.
- 2. In the case of Article 13, paragraph (a) or (c), the court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the court in accordance with paragraph 3:
 - (a) the State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the state of registration of that vessel or aircraft;
 - (b) the state of which the person accused of the crime is a national.
- 3. If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the court with respect to the crime in question. The accepting State shall cooperate with the court without any delay or exception in accordance with part 9 (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 12 stand part of the Treaty, put and agreed to.

ARTICLE 13—EXERCISE OF JURISDICTION

The court may exercise its jurisdiction with respect to a crime referred to in Article 5 in accordance with the provisions of this Statute if:

- (a) a situation in which one or more of such crimes appears to have been committed is referred to the prosecutor by a State Party in accordance with Article 14;
- (b) a situation in which one or more of such crimes appears to have been committed is referred to the prosecutor by the security council acting under Chapter VII of the Charter of the United Nations; or
- (c) the prosecutor has initiated an investigation in respect of such a crime in accordance with Article 15 (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 13 stand part of the Treaty, put and agreed to.

ARTICLE 14—REFERRAL OF A SITUATION BY A STATE PARTY

1. A State Party may refer to the prosecutor a situation in which one or more crimes within the jurisdiction of the court appear to have been committed requesting the prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.
2. As far as possible, a referral shall specify the relevant circumstances and accompanied by such supporting documentation as is available to the State referring the situation (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 14 stand part of the Treaty, put and agreed to.

ARTICLE 15—PROSECUTOR

1. The prosecutor may initiate investigation *proprio motu* on the basis of information on crimes within the jurisdiction of the court.
2. The prosecutor shall analyze the seriousness of the information received for this purpose, he or she may seek additional information from states, organs of the United Nations, intergovernmental or nongovernmental organisations, or other reliable sources he or she shall deem appropriate, and may receive written or oral testimony at the seat of the court.
3. 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 of authorisation of an investigation, together with any supporting material collected. Victims may make representations, to the Pre-Trial Chamber, in accordance with the rules of Procedure and Evidence.
4. If the Pre-Trial Chamber, upon examination of the request and the supporting material, consider that there is a reasonable basis to proceed with investigation, and that the case appears to fall within the jurisdiction of the court, it shall authorise the commencement of the investigation, without prejudice to subsequent determinations by the court with regard to the jurisdiction and admissibility of a case.
5. The refusal of the Pre-Trial Chamber to authorise investigation shall not preclude the presentation of a subsequent request by the prosecutor based on new facts or evidence regarding the same situation.
6. If after the preliminary examination referred to in paragraphs 1 and 2, the prosecutor conclude 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 to him or her regarding the same situation in the light of new facts or evidence (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 15 stand part of the Treaty, put and agreed to.

ARTICLE 16—DEFERRAL OF INVESTIGATION OF PROSECUTION

No investigation or prosecution may be commenced or proceeded with under this statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the court to that effect that request may be renewed by the Council under the same conditions (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provision in Article 16 stand part of the Treaty, put and agreed to.

ARTICLE 17—ISSUES OF ADMISSIBILITY

1. Having regard to paragraph 10 of the preamble and Article 1, the court shall determine that a case is inadmissible where:
 - (a) the case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution

- (b) the case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute;
 - (c) the person concerned has already been tried for conduct which is the subject of the complaint, and a trial by the court is not permitted under Article 20, paragraph 3;
 - (d) the case is not of sufficient gravity to justify further action by the court.
2. In order to determine unwillingness in a particular case, the court shall consider having regard to the principles of due process recognized by international law, whether one or more of the following exist, as applicable:
 - (a) the proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the court referred to in Article 5;
 - (b) there has been unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice.
 - (c) the proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.
 3. In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings
(*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 17 stand part of the Treaty, put and agreed to.

ARTICLE 18—PRELIMINARY RULINGS REGARDING ADMISSIBILITY

1. When a situation has been referred to the Court pursuant to Article 13 (a) and the prosecutor has determined that there would be a reasonable basis to commence an investigation, or the prosecutor initiates an investigation pursuant to Articles 13 (c) and 15, the prosecutor shall notify all States Parties and those States which, taking into account the information available, would normally exercise jurisdiction over the crimes concerned. The prosecutor may notify such States on a confidential basis and, where the prosecutor believes it necessary to protect persons, prevent destruction of evidence or prevent the absconding of persons, may limit the scope of the information provided to States.
2. Within one month of receipt of that notice, a State may inform the Court that it is investigating or has investigated its nationals or others within its jurisdiction with respect to criminal acts which may constitute crimes referred to in article 5 and which relate to the information provided in the notification to States. At the request of that, the prosecutor shall defer to the state's investigation of those persons unless the Pre-Trial Chamber, on the application of the prosecutor, decides to authorize the investigation.
3. The prosecutor's deferral to a state's investigation shall be open to review by the prosecutor six months after the date of deferral or at any time when there has been a significant change of circumstances based on the State's unwillingness or inability genuinely to carry out the investigation.
4. The State concerned or the prosecutor may appeal to the Appeals Chamber against a ruling of the Pre-Trial Chamber, in accordance with Article 82, paragraph 2. The appeal may be heard on an expedited basis.
5. When the prosecutor has deferred an investigation in accordance with paragraph 2, the prosecutor may request that the State concerned periodically inform the prosecutor of the progress of its investigations and any subsequent prosecutions. States Parties shall respond to such requests without undue delay.
6. Pending a ruling by the Pre-Trial Chamber, or at any time when the or prosecutor has deferred an investigation under this Article, the prosecutor may, on an exceptional basis, seek authority from the Pre-Trial Chamber to pursue necessary investigative steps for the purpose of preserving evidence

were there is a unique opportunity to obtain important evidence or there is a Significant risk that such evidence may not be subsequently available.

7. A State which has challenged a ruling of the Pre-Trial Chamber under this article may challenge the admissibility of a case under Article 19 on the grounds of additional significant facts or significant change of circumstances (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 18 stand part of the Treaty, put and agreed to.

ARTICLE 19—CHALLENGES TO THE JURISDICTION OF THE COURT OR THE ADMISSIBILITY OF A CASE

1. The Court shall satisfy itself that it has jurisdiction in any case brought before it. The Court may, on its own motion, determine the admissibility of a case in accordance with Article 17.
2. Challenges to the admissibility of a case on the grounds referred to in Article 17 or challenges to the jurisdiction of the Court may be made by:
 - (a) an accused or a person for whom a warrant of arrest or a summons to appear has been issued under Article 58;
 - (b) a State which has jurisdiction over a case, on the ground that it is investigating or prosecuting the case or has investigated or prosecuted; or
 - (c) a State from which acceptance of jurisdiction is required under Article 12.
3. The Prosecutor may seek a ruling from the Court regarding a question of jurisdiction or admissibility. In proceedings with respect to jurisdiction or admissibility, those who have referred the situation under Article 13, as well as victims, may also submit observations to the Court.
4. The admissibility of a case or the jurisdiction of the court may be challenged only once by any person or State referred to in paragraph 2. The challenge shall take place prior to or at the commencement of the trial. In exceptional circumstances, the Court may grant leave for a challenge to be brought more than once or at a time later than the commencement of the trial. Challenges to the admissibility of a case, at the commencement of a trial, or subsequently with the leave of the court, may be based only on Article 17, paragraph 1 (c).
5. A State referred to in paragraph 2 (b) and (c) shall make a challenge at the earliest opportunity.
6. Prior to the confirmation of the charges, challenges to the admissibility of a case or challenges to the jurisdiction of the court shall be referred to the Pre-Trial Chamber. After confirmation of the charges, they shall be referred to the Trial Chamber. Decisions with respect to jurisdiction or admissibility may be appealed to the Appeals Chamber in accordance with Article 82.
7. If a challenge is made by a State referred to in paragraph 2 (b) or (c), the Prosecutor shall suspend the investigation until such time as the court makes a determination in accordance with Article 17.
8. Pending a ruling by the Court, the Prosecutor may seek authority from the Court:
 - (a) to pursue necessary investigative steps of the kind referred to in Article 18, paragraph 6;
 - (b) to take a statement or testimony from a witness or complete the collection and examination of evidence which had begun prior to the making of the challenge; and
 - (c) in cooperation with the relevant States, to prevent the absconding of persons in respect of whom the Prosecutor has already requested a warrant of arrest under Article 58.
9. The making of challenge shall not affect the validity of any act performed by the Prosecutor or any order or warrant issued by the Court prior to the making of the challenge.
10. If the Court has decided that a case is inadmissible under Article 17, the Prosecutor may submit a request for a review of the decision when he or she is fully satisfied that new facts have arisen which negate the basis on which the case had previously been found inadmissible under Article 17.

11. If the Prosecutor, having regard to the matters referred to in Article 17, defers an investigation, the Prosecutor may request that the relevant State make available to the Prosecutor information on the proceedings. That information shall, at the request of the State concerned, be confidential. If the Prosecutor thereafter decides to proceed with an investigation, he or she shall notify the State in respect of the proceedings of which deferral has taken place (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 19 stand part of the Treaty, put and agreed to.

ARTICLE 20—NE BIS IN IDEM

1. Except as provided in this Statute, no person shall be tried before the Court with respect to conduct which formed the basis of crimes for which the person has been convicted or acquitted by the Court.
2. No person shall be tried before another court for a crime referred to in Article 5 for which that person has already been convicted or acquitted by the Court.
3. No person who has been tried by another court for conduct also proscribed under Articles 6, 7 or 8 shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:
 - (a) were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court; or
 - (b) otherwise were not conducted independently or impartially in accordance with the norms of due process recognized by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 20 stand part of the Treaty, put and agreed to.

ARTICLE 21—APPLICABLE LAW

1. The Court shall apply:
 - (a) in the first place, this statute, elements of crimes and its rules of procedure and evidence;
 - (b) in the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;
 - (c) failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this statute and with international law and internationally recognized norms and standards.
2. The Court may apply principles and rules of law as interpreted in its previous decisions.
3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human right, and be without any adverse distinction founded on grounds such as gender, as defined in Article 7, paragraph 3, age, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 21 stand part of the Treaty, put and agreed to.

PART 3—GENERAL PRINCIPLES OF CRIMINAL LAW

ARTICLE 22—NULLUM CRIMEN SINE LEGE

1. A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court.

2. The definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.
3. This Article shall not affect the characterization of any conduct as criminal under international law independently of this Statute (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 22 stand part of the Treaty, put and agreed to.

ARTICLE 23—NULLA POENA SINE LEGE

A person convicted by the Court may be punished only in accordance with this Statute (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 23 stand part of the Treaty, put and agreed to.

ARTICLE 24—NON-RETROACTIVITY RATIONE PERSONAE

1. No person shall be criminally responsible under this Statute for conduct prior to the entry into force of the Statute.
2. In the event of a change in the law applicable to a given case prior to a final judgement, the law more favourable to the person being investigated, prosecuted or convicted shall apply (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 24 stand part of the Treaty, put and agreed to.

ARTICLE 25—INDIVIDUAL CRIMINAL RESPONSIBILITY

1. The Court shall have jurisdiction over natural persons pursuant to this Statute.
2. A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute.
3. In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:
 - (a) commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
 - (b) orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
 - (c) for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;
 - (d) in any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
 - (i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or
 - (ii) be made in the knowledge of the intention of the group to commit the crime;
 - (e) in respect of the crime of genocide, directly and publicly incites others to commit genocide;
 - (f) attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.

No provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 25 stand part of the Treaty, put and agreed to.

ARTICLE 26—EXCLUSION OF JURISDICTION OVER PERSONS UNDER EIGHTEEN

The Court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 26 stand part of the Treaty, put and agreed to.

ARTICLE 27—IRRELEVANCE OF OFFICIAL CAPACITY

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or Parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.
2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 27 stand part of the Treaty, put and agreed to.

ARTICLE 28—RESPONSIBILITY OF COMMANDERS AND OTHER SUPERIORS

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

1. A Military Commander or person effectively acting as military commander shall be criminally responsible for crimes within the jurisdiction of the court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:
 - (a) that Military Commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
 - (b) that Military Commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
2. With respect to superior and subordinate relationships not described in paragraph 1, a superior shall be criminally responsible for crimes within the jurisdiction of the court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:
 - (a) the superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
 - (b) the crimes concerned activities that were within the effective responsibility and control of the superior; and
 - (c) the superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 28 stand part of the Treaty, put and agreed to.

ARTICLE 29—NON-APPLICATION OF STATUTE OF LIMITATIONS

The crimes within the jurisdiction of the court shall not be subject to any Statute of limitations (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 29 stand part of the Treaty, put and agreed to.

ARTICLE 30—MENTAL ELEMENT

1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the court only if the material elements are committed with intent and knowledge.
2. For the purposes of this article, a person has intent where:
 - (a) in relation to conduct, that person means to engage in the conduct;
 - (b) in relation to a consequence, that persons means to cause that consequence or is aware that it will occur in the ordinary course of events.
3. For the purposes of this article, "knowledge" means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. "Know" and "knowingly" shall be construed accordingly (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 30 stand part of the Treaty, put and agreed to.

ARTICLE 31—GROUNDS FOR EXCLUDING CRIMINAL RESPONSIBILITY

1. In addition to other grounds for excluding criminal responsibility provided for in this statute, a person shall not be criminally responsible if, at the time of that person's conduct:
 - (a) the person suffers from a mental disease or defect that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law;
 - (b) the person is in a state of intoxication that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the court;
 - (c) the person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission, against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected. The fact that the person was involved in a defensive operation conducted by forces shall not in itself constitute a ground for excluding criminal responsibility under this subparagraph.
 - (d) the conduct which is alleged to constitute a crime within the jurisdiction of the court has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another persons, and the person acts necessarily and reasonably to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Such a threat may either be:
 - (i) made by other persons; or
 - (ii) constituted by other circumstances beyond that person's control
2. The court shall determine the applicability of the grounds for excluding criminal responsibility provided for in this statute to the case before it.
3. At trial, the court may consider a ground for excluding criminal responsibility other than those referred to in paragraph 1 where such a ground is derived from applicable law as set forth in Article 21. The procedures relating to the consideration of such a ground shall be provided for in the Rules of Procedure and Evidence (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 31 stand part of the Treaty, put and agreed to.

ARTICLE 32—MISTAKE OF FACT OR MISTAKE OF LAW

1. A mistake of fact shall be a ground for excluding criminal responsibility only if it negates the mental element required by the crime.
2. A mistake of law as to whether a particular type of conduct is a crime within the jurisdiction of the court shall not be a ground for excluding criminal responsibility. A mistake of law may, however, be a ground for excluding criminal responsibility if it negates the mental element required by such a crime, or as provided for in Article 33 (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 32 stand part of the Treaty, put and agreed to.

ARTICLE 33—SUPERIOR ORDERS AND PRESCRIPTION OF LAW

1. The fact that a crime within the jurisdiction of the court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:
 - (a) the person was under a legal obligation to obey orders of the Government or the superior in question;
 - (b) the person did not know that the order was unlawful; and
 - (c) the order was not manifestly unlawful.
2. For the purposes of this article, orders to commit genocide or crimes against humanity are manifestly unlawful (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 33 stand part of the Treaty, put and agreed to.

PART 4—COMPOSITION AND ADMINISTRATION OF THE COURT

ARTICLE 34—ORGANS OF THE COURT

The Court shall be composed of the following organs:

- (a) the Presidency;
- (b) an Appeals Division, a Trial Division and a Pre-Trial Division;
- (c) the Office of the Prosecutor;
- (d) the Registry (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 34 stand part of the Treaty, put and agreed to.

ARTICLE 35—SERVICE OF JUDGES

1. All judges shall be elected as full-time members of the court and shall be available to serve on that basis from the commencement of their terms of office.
2. The judges composing the Presidency shall serve on a full-time basis as soon as they are elected.
3. The Presidency may, on the basis of the work-load of the Court and in consultation with its members, decide from time to time to what extent the remaining judges shall be required to serve on a full-time basis. Any such arrangement shall be without prejudice to the provisions of Article 40.
4. The financial arrangements for judges not required to serve on a full-time basis shall be made in accordance with Article 49 (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 35 stand part of the Treaty, put and agreed to.

ARTICLE 36—QUALIFICATIONS, NOMINATION AND ELECTION OF JUDGES

1. Subject to the provisions of paragraph 2, there shall be 18 judges of the court.
3. (a) The Presidency, acting on behalf of the court, may propose an increase in the number of judges specified in paragraph 1, indicating the reasons why this is considered necessary and appropriate. The Registrar shall promptly circulate any such proposal to all States Parties.
- (b) Any such proposal shall then be considered at a meeting of the Assembly of States Parties to be convened in accordance with Article 112. The proposal shall be considered adopted if approved at the meeting by a vote of two-thirds of the members of the Assembly of States Parties and shall enter into force at such time as decided by the Assembly of States Parties.
- (c) (i) Once a proposal for an increase in the number of judges has been adopted under subparagraph (b), the election of the additional judges shall take place at the next session of the Assembly of States Parties in accordance with paragraphs 3 to 8 inclusive, and Article 37, paragraph 2.
- (ii) Once a proposal for an increase in the number of judges has been adopted and brought into effect under subparagraphs (b) and (c) (i), it shall be open to the Presidency at any time thereafter, if the work-load of the Court justifies it, to propose a reduction in the number of judges, provided that the number of judges shall not be reduced below that specified in paragraph 1. The proposal shall be dealt with in accordance with the procedure laid down in subparagraphs (a) and (b). In the event that the proposal is adopted, the number of judges shall be progressively decreased as the terms of office of serving judges expire, until the necessary number has been reached..
4. (a) The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices.
- (b) Every candidate for election to the Court shall:
 - (i) have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings; or
 - (ii) have established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court;
 - (c) every candidate for election to the Court shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.
5. (a) Nominations of candidates for election to the Court may be made by any State Party to this Statute, and shall be made either:
 - (i) by the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question; or
 - (ii) by the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court.

Nominations shall be accompanied by a statement in the necessary detail specifying how the candidate fulfils the requirements of paragraph 3.
- (b) Each State Party may put forward one candidate for any given election who need not necessarily be a national of that State Party but shall in any case be a national of a State Party.
- (c) The Assembly of States Parties may decide to establish, if appropriate, an Advisory Committee on nominations. In that event, the Committee's composition and mandate shall be established by the Assembly of States Parties.

5. For the purposes of the election, there shall be two lists of candidate:
- (a) List A containing the names of candidates with the qualifications specified in paragraph 3 (b) (i); and
 - (b) List B containing the names of candidates with the qualifications specified in paragraph 3 (b) (ii).
- A candidate with sufficient qualifications for both lists may choose on which list to appear. At the first election to the Court, at least nine judges shall be elected from List A and at least five judges from List B. Subsequent elections shall be so organized as to maintain the equivalent proportion on the Court of judges qualified on the two lists.
6. (a) The judges shall be elected by secret ballot at a meeting of the Assembly of States Parties convened for that purpose under Article 112. Subject to paragraph 7, the persons elected to the Court shall be the 18 candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting.
- (b) In the event that a sufficient number of judges is not elected on the first ballot, successive ballots shall be held in accordance with the procedures laid down in subparagraph (a) until the remaining places have been filled.
7. No two judges may be nationals of the same State. A person who, for the purposes of membership in the Court, could be regarded as a national of more than one State shall be deemed to be a national of the State in which that person ordinarily exercises civil and political rights.
8. (a) The States Parties shall, in the selection of judges, take into account the need, within the membership of the Court, for:
- (i) the representation of the principal legal systems of the world;
 - (ii) equitable geographical representation; and
 - (iii) a fair representation of female and male judges.
- (b) States Parties shall also take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children.
9. (a) Subject to subparagraph (b), judges shall hold office for a term of nine years and, subject to subparagraph (c) and to Article 37, paragraph 2, shall not be eligible for reelection.
- (b) At the first election, one third of the judges elected shall be selected by lot to serve for a term of three years; one third of the judges elected shall be selected by lot to serve for a term of six years; and the remainder shall serve for a term of nine years.
- (c) A judge who is selected to serve for a term of three years under subparagraph (b) shall be eligible for reelection for a full term.
10. Notwithstanding paragraph 9, a judge assigned to a Trial or Appeals Chamber in accordance with Article 39 shall continue in office to complete any trial or appeal the hearing of which has already commenced before that Chamber (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 36 stand part of the Treaty, put and agreed to.

ARTICLE 37—JUDICIAL VACANCIES

1. In the event of a vacancy, an election shall be held in accordance with Article 36 to fill the vacancy.
2. A judge elected to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is three years or less, shall be eligible for reelection for a full term under Article 36 (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 31 stand part of the Treaty, put and agreed to.

ARTICLE 38—THE PRESIDENCY

1. The Presidency and the First and Second Vice-Presidents shall be elected by an absolute majority of the judges. They shall each serve for a term of three years or until the end of their respective terms of office as judges, whichever expires earlier. They shall be eligible for reelection once.
2. The First Vice-President shall act in place of the President in the event that the President is unavailable or disqualified. The Second Vice-President shall act in place of the President in the event that both the President and the First Vice-President are unavailable or disqualified.
3. The President, together with the First and Second Vice-Presidents, shall constitute the Presidency, which shall be responsible for:
 - (a) the proper administration of the Court, with the exception of the Office of the Prosecutor; and
 - (b) the other functions conferred upon it in accordance with this Statute. In discharging its responsibility under paragraph 3 (a), the Presidency shall coordinate with and seek the concurrence of the Prosecutor on all matters of mutual concern (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 37 stand part of the Treaty, put and agreed to.

ARTICLE 39—CHAMBERS

1. As soon as possible after the election of the judges, the Court shall organize itself into the divisions specified in Article 34, paragraph (b). The Appeals Division shall be composed of the President and four other judges, the Trial Division of not less than six judges and the Pre-Trial Division of not less than six judges. The assignment of judges to divisions shall be based on the nature of the functions to be performed by each division and the qualifications and experience of the judges elected to the Court, in such away that each division shall contain an appropriate combination of expertise in criminal law and procedure and in international law. The Trial and Pre-Trial Divisions shall be composed predominantly of judges with criminal trial experience.
2.
 - (a) The judicial functions of the Court shall be carried out in each division by chambers.
 - (b)
 - (i) The Appeals Chamber shall be composed of all the judges of the Appeals Division.
 - (ii) The functions of the Trial Chamber shall be carried out by three judges of the Trial Division.
 - (iii) The functions of the Pre-Trial Chamber shall be carried out either by three judges of the Pre-Trial Division or by a single judge of that division in accordance with this Statute and the Rules of Procedure and Evidence.
 - (c) Nothing in this paragraph shall preclude the simultaneous constitution of more than one Trial Chamber or Pre-Trial Chamber when the efficient management of the Court's work-load so requires.
3.
 - (a) Judges assigned to the Trial and Pre-Divisions shall serve in those divisions for a period of three years, and thereafter until the completion of any case the hearing of which has already commenced in the division concerned.
 - (b) Judges assigned to the Appeals Division shall serve in that division for their entire term of office.
4. Judges assigned to the Appeals Division shall serve only in that division. Nothing in this article shall, however, preclude the temporary attachment of judges from the Trial Division to the Pre-Trial Division or vice versa, if the Presidency considers that the efficient management of the Court's work-load so requires, provided that under no circumstances shall a judge who has participated in the pretrial phase of a case be eligible to sit on the Trial Chamber hearing that case (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 39 stand part of the Treaty, put and agreed to.

ARTICLE 40—INDEPENDENCE OF THE JUDGES

1. The Judges shall be independent in the performance of their functions.
2. Judges shall not engage in any activity which is likely to interfere with their judicial functions or to affect confidence in their independence.
3. Judges required to serve on a full-time basis at the seat of the Court shall not engage in any other occupation of a professional nature.
4. Any question regarding the application of paragraphs 2 and 3 shall be decided by an absolute majority of The judges. Where any such question concerns an individual judge, that judge shall not take part in the decision (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 40 stand part of the Treaty, put and agreed to.

ARTICLE 41—EXCUSING AND DISQUALIFICATION OF JUDGES

1. The Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute, in accordance with the Rules of Procedure and Evidence.
2.
 - (a) A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall, be disqualified from a case in accordance with this paragraph if, *inter alia*, that judge has previously been involved in any capacity in that case before the court or in a related criminal case at the national level involving the person being investigated or prosecuted. A judge shall also be disqualified on such other grounds as may be provided for in the Rules of Procedure and Evidence.
 - (b) The prosecutor or the person being investigated or prosecuted may request the disqualification of a judge under this paragraph.
 - (c) Any question as to the disqualification of a judge shall be decided by an absolute majority of the judges. The challenged judge shall be entitled to present his or her comments on the matter, but shall not take part in the decision (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 41 stand part of the Treaty, put and agreed to.

ARTICLE 42—THE OFFICE OF THE PROSECUTOR

1. The office of the prosecutor shall act independently as a separate organ of the court. It shall be responsible for receiving referrals and any substantiated information on crimes within the jurisdiction of the court, for examining them and for conducting investigations and prosecutions before the court. A member of the office shall seek or act on instructions from any external source.
2. The office shall be headed by the prosecutor. The prosecutor shall have full authority over the management and administration of the office, including the staff, facilities and other resources thereof. The prosecutor shall be assisted by one or more Deputy Prosecutors, who shall be entitled to carry out any other acts required of the prosecutor under this statute. The prosecutor and the Deputy Prosecutors shall be of different nationalities. They shall serve on a full-time basis.
3. The prosecutor and the Deputy prosecutors shall be persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases. They shall have an excellent knowledge of and be fluent in at least one of the working languages of the court.
4. The prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy prosecutors shall be elected in the same way from a list of candidates provided by the prosecutor. The prosecutor shall nominate three candidates for each position of Deputy prosecutor to be filled. Unless a shorter term is decided upon at the time of their election, the prosecutor and the Deputy prosecutor shall hold office for a term of nine years and shall not be eligible for reelection.
5. Neither the prosecutor nor the Deputy prosecutor shall engage in any activity which is likely to interfere with his or her prosecutorial functions or to affect confidence in his independence. They shall not engage in any other occupation of a professional nature.

6. The presidency may excuse the prosecutor or a Deputy prosecutor, at his or her request, from acting in a particular case.
7. Neither the prosecutor nor a Deputy Prosecutor shall participate in any matter in which their impartiality might reasonably be doubted on any ground. They shall be disqualified from a case in accordance with this paragraph if, inter alia, they have previously been involved in any capacity in that case before the court or in a related criminal case at the national level involving the person being investigate or prosecuted.
8. Any question as to the disqualification of the Prosecutor or a Deputy Prosecutor shall be decided by the Appeals Chamber:
 - (a) the person being investigated or prosecuted may at any time request the disqualification of the prosecutor or a Deputy Prosecutor on the grounds set at in this article;
 - (b) the prosecutor or the Deputy Prosecutor, as appropriate, shall be entitled to present his or her comments on the matter.

The prosecutor shall appoint advisers with legal expertise on specific issues, including, but not limited to sexual and gender violence and violence against children (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 42 stand part of the Treaty, put and agreed to.

ARTICLE 43—THE REGISTRY

1. The Registry shall be responsible for nonjudicial aspects of the administration and servicing of the court, without prejudice to the functions and powers of the prosecutor in accordance with Article 42.
2. The Registry shall be headed by the Registrar, who shall be the principal administrative officer of the Court. The Registrar shall exercise his or her actions under the authority of the President of the court.
3. The Registrar and the Deputy registrar shall be persons of high moral character, be highly competent and have an excellent knowledge of and be fluent in at least one of the working language of the court.
4. The judges shall elect the Registrar by an absolute majority by secret ballot, taking into account any recommendation by the Assembly of States Parties. If the need arises and upon the recommendation of the Registrar, the judges shall elect, in the same manner, a Deputy Registrar.
5. The Registrar shall hold office for a term of five years, shall be eligible for reelection once and shall serve on a full-time basis. The Deputy Registrar shall hold office for a term of five years or such shorter term as may be decided upon by an absolute majority of the judges, and may be elected on the basis that the Deputy Registrar shall be called upon to serve as required.
6. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This unit shall provide, in consultation with the office of the prosecutor, protective measures and security arrangements, counseling and other appropriate assistance for witnesses, victims who appear before the court and others who are at risk on account of testimony given by such witnesses. The unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 43 stand part of the Treaty, put and agreed to.

ARTICLE 44—STAFF

1. The Prosecutor and the Registrar shall appoint such qualified staff as may be required to their respective offices. In the case of the Prosecutor, this shall include appointment of investigators.
2. In the Employment of staff, the Prosecutor and the Registrar shall ensure the highest standards of efficiency, competency and integrity, and shall have regard, *mutatis mutandis*, to the criteria set forth in Article 36, paragraph 8.

3. The Registrar, with the agreement of the Presidency and the Prosecutor, shall propose Staff Regulations which include the terms and conditions upon which the staff of the Court shall be appointed, remunerated and dismissed. The Staff Regulations shall be approved by the Assembly of States Parties.
4. The Court may, in exceptional circumstances, employ the expertise of gratis personnel offered by States Parties, intergovernmental organizations or nongovernmental organizations, to assist with the work of any of the organs of the Court. The Prosecutor may accept any such offer on behalf of the office of the Prosecutor. Such gratis personnel shall be employed in accordance with guidelines to be established by the Assembly of States Parties (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 44 stand part of the Treaty, put and agreed to.

ARTICLE 45—SOLEMN UNDERTAKING

Before taking up their respective duties under this Statute, the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar shall each make a solemn undertaking in open court to exercise his or her respective functions impartially and conscientiously (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provision in Article 45 stand part of the Treaty, put and agreed to.

ARTICLE 46—REMOVAL FROM OFFICE

1. A judge, the Prosecutor, a Deputy Prosecutor, the Registrar or the Deputy Registrar shall be removed from office if a decision to this effect is made in accordance with paragraph 2, in cases where that person:
 - (a) is found to have committed serious misconduct or a serious breach of his or her duties under this Statute, as provided for in the Rules of Procedure and Evidence; or
 - (b) is unable to exercise the functions required by this Statute.
2. A decision as to the removal from office of a judge, the Prosecutor or a Deputy Prosecutor under paragraph 1 shall be made by the Assembly of States Parties, by secret ballot:
 - (a) in the case of a judge, by a two-thirds majority of the States Parties upon a recommendation adopted by a two-thirds majority of the other judges;
 - (b) in the case of the Prosecutor, by an absolute majority of the States Parties;
 - (c) in the case of a Deputy Prosecutor, by an absolute majority of the States parties upon the recommendation of the Prosecutor.
3. A decision as to the removal from office of the Registrar or Deputy Registrar shall be made an absolute majority of the judges.
4. A Judge, Prosecutor, Deputy Prosecutor, Registrar whose conduct or ability to exercise the functions of the office as required by this Statute is challenged under this article shall have full opportunity to present and receive evidence and to make submissions in accordance with the Rules of Procedures and Evidence. The person in question shall not otherwise participate in the consideration of the matter (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 46 stand part of the Treaty, put and agreed to.

ARTICLE 47—DISCIPLINARY MEASURES

A Judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar who has committed misconduct of a less serious nature than that set out in Article 46, paragraph 1, shall be subject to disciplinary measures, in accordance with the Rules of Procedure and Evidence (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provision in Article 47 stand part of the Treaty, put and agreed to.

ARTICLE 48—PRIVILEGES AND IMMUNITIES

1. The Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfillment of its purposes.
2. The Judge, the Prosecutor, the Deputy Prosecutors and the Registrar shall, when engaged on or with respect to the business of the Court, enjoy the same privileges and immunities as are accorded to heads of diplomatic missions and shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind of in respect of words spoken or written and acts performed by them in their official capacity.
3. The Deputy Registrar, the staff of the office of the Prosecutor and the staff of the Registry shall enjoy the privileges and immunities and facilities necessary for the performance of their functions, in accordance with the agreement on the privileges and immunities of the court.
4. Counsel, experts, witnesses or any other person required to be present at the seat of the Court shall be accorded such treatment as is necessary for the proper functioning of the court in accordance with the agreement on the privileges and immunities of the court.
5. The privileges and immunities of:
 - (a) a Judge or the Prosecutor may be waived by an absolute majority of the judges;
 - (b) the Registrar may be waived by the Presidency;
 - (c) the Deputy Prosecutors and staff of the office of the prosecutor may be waived by the prosecutor;
 - (d) the Deputy Registrar and staff of the registrar may be waived by the Registrar (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 48 stand part of the Treaty, put and agreed to.

ARTICLE 49—SALARIES, ALLOWANCES AND EXPENSES

The Judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the deputy Registrar shall receive such salaries; allowances and expenses as may be decided upon to the Assembly of States Parties. These salaries and allowances shall not be reduced during their terms of office (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 49 stand part of the Treaty, put and agreed to.

ARTICLE 50—OFFICIAL AND WORKING LANGUAGES

1. The official languages of the court shall be Arabic, Chinese, English, French, Roman and Spanish. The judgments of the court, as well as other decisions involving fundamental issues before the court, shall be published in the official languages. The Presidency shall, in accordance with the criteria established by the rules and Procedure and Evidence, determine which decisions may be considered as resolving fundamental issues for the purposes of this paragraph.
2. The working languages of the court shall be English and French. The Rules of procedure and Evidence shall determine the cases in which other official languages may be used as working languages.
3. At the request of any Party to a proceeding or a State allowed to intervene in a proceeding, the court shall authorise a language other than English or French to be used by such a Party or State, provided that the court considers such authorization to be adequately justified (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 50 stand part of the Treaty, put and agreed to.

ARTICLE 51—RULES OF PROCEDURES AND EVIDENCE

1. The rules of Procedures and Evidence shall enter into force upon adoption by a two-thirds majority of the members of the Assembly of States parties.

2. Amendments to the Rules of Procedure and Evidence may be proposed by:

- (a) any State Party;
- (b) the Judges acting by an absolute majority; or
- (c) the Prosecutor.

Such amendments shall enter into force upon adoption by a two-thirds majority of the members of the Assembly of States Parties.

3. After the adoption of the Rules of Procedure and Evidence, in urgent cases where the Rules do not provide for a specific situation before the Court, the Judges may, by a two-thirds majority, draw up provisional Rules to be applied until adopted amended or rejected at the next Ordinary or Special Session of the Assembly of States Parties.
4. The Rules of Procedure and Evidence, amendments thereto and any Provisional Rule shall be consistent with this Statute. Amendment of Procedure and Evidence as well as Provisional Rules shall not be applied retroactively to the detriment of the person who is being investigated or prosecuted or who has been convicted.
5. In the event of conflict between the Statute and the Rules of Procedure and Evidence, the Statute shall prevail (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 51 stand part of the Treaty, put and agreed to.

ARTICLE 52—REGULATIONS OF THE COURT

1. The judges shall, in accordance with this Statute and the Rules of Procedure and Evidence, adopt, by an absolute majority, the regulations of the Court necessary for its routine functioning.
2. The Prosecutor and the Registrar shall be consulted in the elaboration of the regulations and any amendments thereto.
3. The regulations and any amendments thereto shall take effect upon adoption unless otherwise decided by the judges. Immediately upon adoption, they shall be circulated to States Parties for comments. If within six months there are objections from a majority of States Parties, they shall remain in force (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 52 stand part of the Treaty, put and agreed to.

PART 5—INVESTIGATION AND PROSECUTION

ARTICLE 53—INITIATION OF AN INVESTIGATION

1. The Prosecutor shall having evaluated the information made available to him or her, initiate an investigation unless he or she determines that there is no reasonable basis to proceed under this Statute. In deciding whether to initiate an investigation, the prosecutor shall consider whether:
- (a) the information available to the prosecutor provides a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed;
 - (b) the case is or would be admissible under Article 17; and
 - (c) taking into account the gravity of the crime and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice.

If the Prosecutor determines that there is no reasonable basis to proceed and his or her determination is based solely on subparagraph (c) above, he or she shall inform the Pre-Trial Chamber.

2. If upon investigation, the prosecutor concludes that there is not a sufficient basis for a prosecution because:
- (a) there is not a sufficient legal or factual basis to seek warrant or summons under Article 58

- (b) the case is inadmissible under Article 17; or
- (c) a prosecution is not in the interests of justice, taking into account all the circumstances, including the gravity of the crime, the interests of victims and the age or infirmity of the alleged perpetrator, and his or her role in the alleged crime;

The prosecutor shall inform the Pre-Trial Chamber and the State making a referral under Article 14 or the Security Council in a case under Article 13, paragraph (b), of his or her conclusion and the reasons for the conclusion.

3.
 - (a) At the request of the State making a referral under Article 14 or the Security Council under Article 13, paragraph (b), the Pre-Trial Chamber may review a decision of the prosecutor under paragraph 1 or 2 not to proceed and may request the prosecutor to reconsider that decision.
 - (b) In addition, the Pre-Trial Chamber may, on its own initiative, review a decision of the prosecutor not to proceed if it is based solely on paragraph 1 (c) or 2 (c). In such a case, the decision of the prosecutor shall be effective only if confirmed by the Pre-Trial Chamber.
4. The prosecutor may, at any time, reconsider a decision whether to initiate an investigation or prosecution based on new facts or information (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 53 stand part of the Treaty, put and agreed to.

ARTICLE 54—DUTIES AND POWERS OF THE PROSECUTOR WITH RESPECT TO INVESTIGATIONS

1. The prosecutor shall:
 - (a) in order to establish the truth, extend the investigation to cover all facts and evidence relevant to an assessment of whether there is criminal responsibility under this statute, and, in doing so, investigate incriminating and exonerating circumstances equally;
 - (b) take appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the court, and in doing so, respect the interest and personal circumstances of victims and witnesses, including age, gender as defined in Article 7, paragraph 3, and health, and take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children; and
 - (c) fully respect the rights of persons arising under this Statute.
2. The prosecutor may conduct investigations on the territory of a State:
 - (a) in accordance with the provisions of Part 9; or
 - (b) as authorized by the Pre-Trial Chamber under Article 57, paragraph 3 (b)
3. The prosecutor may:
 - (a) collect and examine evidence;
 - (b) request the presence of and question persons being investigated, victims and witnesses;
 - (c) seek the cooperation of any State or intergovernmental organization or arrangement in accordance with its respective competence and/or mandate;
 - (d) enter into such arrangements or agreements, not inconsistent with this statute, as may be necessary to facilitate the cooperation of a State, intergovernmental organization or person;
 - (e) agree not to disclose, at any stage of the proceedings, documents or information that the prosecutor obtain on the condition of confidentiality and solely for the purpose of generating new evidence, unless the provider of the information consents; and
 - (f) take necessary measures, or request that necessary measures be taken, to ensure the confidentiality of information, the protection of any person or the preservation of evidence (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 54 stand part of the Treaty, put and agreed to.

ARTICLE 55—RIGHTS OF PERSONS DURING AN INVESTIGATION

1. In respect of an investigation under this Statute, a person:
 - (a) shall not be compelled to incriminate himself or herself or to confess guilt;
 - (b) shall not be subjected to any form of coercion, duress or threat to torture or to any other form of cruel, inhuman or degrading treatment or punishment; and
 - (c) shall, if questioned in a language other than a language the person fully understands and speaks, have free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness;
 - (d) shall not be subjected to arbitrary arrest or detention; and shall not be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established in the Statute.
2. Where there are grounds to believe that a person has committed a crime within the jurisdiction of the court and that person is about to be questioned either by the Prosecutor, or by national authorities pursuant to a request made under Part 9 of this Statute, that person shall also have the following rights of which he or she shall be informed prior to being questioned:
 - (a) to be informed, prior to being questioned, that there are grounds to believe that he or she has committed a crime within the jurisdiction of the court;
 - (b) to remain silent, without such silence being a consideration in the determination of guilt or innocence;
 - (c) to have legal assistance of the person's choosing, or, if the person does not have legal assistance, to have legal assistance assigned to him or her in any case where the interests of justice so require, and without payment by the person in any such case if the person does not have efficient means to pay for it;
 - (d) to be questioned in the presence of counsel unless the person has voluntarily waived his or her right to counsel (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 55 stand part of the Treaty, put and agreed to.

ARTICLE 56—ROLE OF THE PRE-TRIAL CHAMBER IN RELATION TO A UNIQUE INVESTIGATIVE OPPORTUNITY

1.
 - (a) Where the Prosecutor considers an investigation to present a unique opportunity to take testimony or a statement from a witness or to examine, collect or test evidence, which may not be available subsequently for the purposes of a trial, the Prosecutor shall so inform the Pre-Trial Chamber.
 - (b) In that case, the Pre-Trial Chamber may, upon request of the Prosecutor, take such measures as may be necessary to ensure the efficiency and integrity of the proceedings and, in particular, to protect the rights of the defence.
 - (c) Unless the Pre-Trial Chamber orders otherwise, the Prosecutor shall provide the relevant information to the person who has been arrested or appeared in response to a summons in connection with the investigation referred to in subparagraph (a), in order that he or she may be heard on the matter.
2. The measures referred to in paragraph 1 (b) may include:
 - (a) making recommendations or orders regarding procedures to be followed;
 - (b) directing that a record be made of the proceedings;
 - (c) appointing an expert to assist;

- (d) authorizing counsel for a person who has been arrested, or appeared before the court in response to a summons, to participate, or where there has not yet been such an arrest or appearance or counsel has not been designated, appointing another counsel to attend and represent the interests of the defence .
 - (e) naming one of its members or, if necessary, another available judge of the Pre-Trial or Trial Division to observe and make recommendations or others regarding the collection and preservation of evidence and the questioning of persons
 - (f) taking such other action as may be necessary to collect or preserve evidence.
3. (a) Where the Prosecutor has not sought measures pursuant to this article but the Pre-Trial Chamber considers that such measures are required to preserve evidence that it deems would be essential for the defence at trial, it shall consult with the Prosecutor as to whether there is good reason for the Prosecutor's failure to request the measures. If upon consultation, the Pre-Trial Chamber concludes that the Prosecutor's failure to request such measures is unjustified, the Pre-Trial Chamber may take such measures on its own initiative.
- (b) A decision or the Pre-Trial Chamber to act on its own initiative under this paragraph may be appealed by the Prosecutor. The appeal shall be heard on an expedited basis.
4. The admissibility of evidence preserved or collected for trial pursuant to this article, or the record thereof, shall be governed at trial by Article 69, and given such weight as determined by the Trial-Chamber (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 56 stand part of the Treaty, put and agreed to.

ARTICLE 57—FUNCTIONS AND POWERS OF THE PRE-TRIAL CHAMBER

1. Unless otherwise provided for in this Statute, the Pre-Trial Chamber shall exercise its functions in accordance with the provisions of this article.
2. (a) Orders or rulings of the Pre-Trial Chamber issued under Articles 15, 18, 19, 54 paragraph 2, 61 paragraph 7 and 72 must be concurred in by a majority of its judges.
- (b) In all other cases, a single judge of the Pre-Trial Chamber may exercise the functions provided for in this Statute, unless otherwise provided for in the Rules of Procedure and Evidence or by a majority of the Pre-Trial Chamber.
3. In addition to its other functions under this Statute, the Pre-Trial Chamber may:
 - (a) at the request of the Prosecutor, issue such orders and warrants as may be required for the purposes of an investigation;
 - (b) upon the request of a person who has been arrested or has appeared pursuant to a summons under Article 53, issue such orders, including measures such as those described in Article 56, or seek such cooperation pursuant to Part 9 as may be necessary to assist the person in the preparation of his or her defence;
 - (c) where necessary, provide for the protection and privacy of victims and witnesses, the preservation of evidence, the protection of persons who have been arrested or appeared in response to a summons, and the protection of national security information;
 - (d) authorize the Prosecutor to take specific investigative steps within the territory of a State Party without having secured the cooperation of that State under Part 9 it, whenever possible having regard to the views of the State concerned, the Pre-Trial Chamber has determined in that case that the State is clearly unable to execute a request for cooperation due to the unavailability or any authority or any component of its judicial system competent to execute the request for cooperation under Part 9;
 - (e) where a warrant of arrest or a summons has been issued under Article 58, and having due regard to the strength of the evidence and the rights of the parties concerned, as provided for in this Statute and the Rules of Procedure and Evidence, seek the cooperation of States

pursuant to Article 93, paragraph 1 (j), to take protective measures for the purpose of forfeiture in particular for the ultimate benefit of victims (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 57 stand part of the Treaty, put and agreed to.

ARTICLE 58—ISSUANCE BY THE PRE-TRIAL CHAMBER OF A
WARRANT OF ARREST OR A SUMMONS TO APPEAR

1. At any time after the initiation of an investigation, the Pre-Trial Chamber shall, on the application of the Prosecutor, issue a warrant of arrest of a person if, having examined the application and the evidence or other information submitted by the Prosecutor, it is satisfied that:
 - (a) there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court; and
 - (b) the arrest of the person appears necessary:
 - (i) to enable the person's Appearance at trial;
 - (ii) to ensure that the person does not obstruct or endanger the investigation or the court proceedings; or
 - (iii) where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is within the jurisdiction of the Court and which arises out of the same circumstances.
2. The application of the Prosecutor shall contain:
 - (a) the name of the person and any other relevant identifying information;
 - (b) a specific reference to the crimes within the jurisdiction of the court which the person is alleged to have committed;
 - (c) a concise statement of the facts which are alleged to constitute those crimes;
 - (d) a summary of the evidence and any other information which establish a reasonable grounds to believe that the person committed those crimes; and
 - (e) the reason why the prosecutor believes that the arrest of the person is necessary.
3. The warrant of the arrest shall contain:
 - (a) the name of the person and any other relevant identifying information;
 - (b) a specific reference to the crime within the jurisdiction of the Court for which the person's arrest is sought; and
 - (c) a concise statement of the facts which are alleged to constitute those crimes.
4. The warrant of arrest shall remain in effect until otherwise ordered by the court.
5. On the basis of the warrant of arrest, the Court may request the provisional arrest or the arrest and surrender of the person under Part 9.
6. The prosecutor may request the Pre-Trial Chamber to amend the warrant of arrest by modifying or adding to the crimes specified therein. The Pre-Trial Chamber shall so amend the warrant if it is satisfied that there are reasonable grounds to believe that the person committed the modified or additional crimes.
7. As an alternative to seeking a warrant of arrest, the prosecutor may submit an application requesting that the Pre-Trial Chamber issue a summons for the person to appear. If the Pre-Trial Chamber is satisfied that there are reasonable grounds to believe that the person committed the crime alleged and that a summons is sufficient to ensure the person's appearance, it shall issue the summons, with or without conditions restricting liberty (other than detention) if provided for by national law, for the person to appear. The summons shall contain:

- (a) the name of the person and any other relevant identifying information;
- (b) the specified date on which the person is to appear;
- (c) a specific reference to the crimes within the jurisdiction of the Court which the person is alleged to have committed; and
- (d) a concise statement of the facts which are alleged to constitute the crimes.

The summons shall be served on the person (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 58 stand part of the Treaty, put and agreed to.

ARTICLE 59—ARREST PROCEEDINGS IN THE CUSTODIAL STATE

1. A State Party which has received a request for provisional arrest or for arrest and surrender shall immediately take steps to arrest the person in question in accordance with its laws and the provisions of Part 9.
2. A person arrested shall be brought promptly before the competent judicial authority in the custodial State which shall determine, in accordance with the law of that State, that:
 - (a) the warrant applies to that person,
 - (b) the person has been arrested in accordance with the proper process;
 - (c) the person's rights have been respected.
3. The person arrested shall have the right to apply to the competent authority in the custodial State for interim release pending surrender.
4. In reaching a decision on any such application, the competent authority in the custodial state shall consider whether, given the gravity of the alleged crimes, there are urgent and exceptional circumstances to justify interim release and whether necessary safeguards exist to ensure that the custodial state can fulfil its duty to surrender the person to the Court. It shall not be open to the competent authority of the custodial state to consider whether the warrant of arrest was properly issued in accordance with Article 58, paragraph 1 (a) and (b).
5. The Pre-Trial Chamber shall be notified of any request for interim release and shall make recommendations to the competent authority in the custodial state. The competent authority in the custodial State shall give full consideration to such recommendations, including any recommendations on measures to prevent the escape of the person, before rendering its decision.
6. If the person is granted interim release, the Pre-Trial Chamber may request periodic reports on the status of the interim release.
7. Once ordered to be surrendered by the Custodial State, the person shall be delivered to the court as soon as possible (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 59 stand part of the Treaty, put and agreed to.

ARTICLE 60—INITIAL PROCEEDINGS BEFORE THE COURT

1. Upon the surrender of the person to the Court, or the person's appearance before the Court voluntarily or pursuant to a summons, the Pre-Trial Chamber shall satisfy itself that the person has been informed of the crimes which he or she is alleged to have committed, and of his or her rights under this statute, including the right to apply for interim release pending trial.
2. A person subject to a warrant to arrest may apply for interim release pending trial. If the Pre-Trial Chamber is satisfied that the conditions set forth in Article 58, paragraph 1, are met, the person shall continue to be detained. If it is not so satisfied, the Pre-Trial Chamber shall release the person, with or without conditions.

3. The Pre-Chamber shall periodically review its ruling on the release or detention of the person, and may do so at any time on the request of the Prosecutor or the person. Upon such review, it may modify its ruling as to detention, release or conditions of release, if it is satisfied that changed circumstances so require.
4. The Pre-Trial Chamber shall ensure that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor. If such delay occurs, the Court shall consider releasing the person, with or without conditions.
5. If necessary, the Pre-Trial Chamber may issue a warrant of arrest to secure the presence of a person who has been released (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 60 stand part of the Treaty, put and agreed to.

ARTICLE 61—CONFIRMATION OF THE CHARGES BEFORE TRIAL

1. Subject to the provisions of paragraph 2, within a reasonable time after the person's surrender or voluntary appearance before the Court, the Pre-Trial Chamber shall hold a hearing to confirm the charges on which the Prosecutor intends to seek trial. The hearing shall be held in the presence of the Prosecutor and the person charged, as well as his or her counsel.
2. The Pre-Trial Chamber may, upon request of the prosecutor or on its own motion, hold a hearing in the absence of the person charged to confirm the charges on which the prosecutor intends to seek trial when the person has:
 - (a) waived his or her right to be present; or
 - (b) fled or cannot be found and all reasonable steps have been taken to secure his or her appearance before the Court and to inform the person of the charges and that a hearing to confirm those charges will be held.

In that case, the person shall be represented by counsel where the Pre-Trial Chamber determines that it is in the interest of justice.

3. Within a reasonable time before the hearing, the person shall:
 - (a) be provided with a copy of the document containing the charges on which the prosecutor intends to bring the person to trial; and
 - (b) be informed of the evidence on which the prosecutor intends to rely at the hearing.

The Pre-Trial Chamber may issue orders regarding the disclosure of information for the purposes of the hearing.

4. Before the hearing, the prosecutor may continue the investigation and may amend or withdraw any charges. The person shall be given reasonable notice before the hearing of any amendment to or withdrawal of charges. In case of a withdrawal of charges, the prosecutor shall notify the Pre-Trial Chamber of the reasons for withdrawal.
5. At the hearing, the prosecutor shall support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged. The prosecutor may rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial.
6. At the hearing, the person may:
 - (a) object to the charges;
 - (b) challenge the evidence presented by the prosecutor; and
 - (c) present evidence.
7. The Pre-Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on its determination, the Pre-Trial Chamber shall:

- (a) confirm those charges in relation to which it has determined that there is sufficient evidence; and commit the person to a Trial-Chamber for trial on the charges as confirmed;
 - (b) decline to confirm those charges in relation to which it has determined that there is insufficient evidence;
 - (c) adjourn the hearing and request the prosecutor to consider:
 - (i) providing further evidence or conducting further investigation with respect to a particular charge; or
 - (ii) amending a charge because the evidence submitted appears to establish a different crime within the jurisdiction of the Court.
8. Where the Pre-Trial Chamber declines to confirm a charge, the prosecutor shall not be precluded from subsequently requesting its confirmation if the request is supported by additional evidence.
 9. After the charges are confirmed and before the trial has begun, the prosecutor may, with the permission of the Pre-Trial Chamber and after notice to the accused, amend the charges, if the prosecutor seeks to add additional charges or to substitute more serious charges, a hearing under this article to confirm those charges must be held. After commencement of the trial, the prosecutor may, with the permission of the Trial-Chamber, withdraw the charges.
 10. Any warrant previously issued shall cease to have effect with respect to any charges which have not been confirmed by the Pre-Trial Chamber or which have been withdrawn by the Prosecutor.
 11. Once the charges have been confirmed in accordance with this article, the Presidency shall constitute a Trial Chamber which, subject to paragraph 8 and to article 64, paragraph 4, shall be responsible for the conduct of subsequent proceedings and may exercise any function of the Pre-Trial Chamber that is relevant and capable of application in those proceedings (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 61 stand part of the Treaty, put and agreed to.

PART 6—THE TRIAL

ARTICLE 62—PLACE OF TRIAL

Unless otherwise decided, the place of the trial shall be the seat of the court (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provision in Article 62 stand part of the Treaty, put and agreed to.

ARTICLE 63—TRIAL IN THE PRESENCE OF THE ACCUSED

1. The accused shall be present during the trial.
2. If the accused, being present before the Court, continues to disrupt the trial, the Trial Chamber may remove the accused and shall make provision for him or her to observe the trial and instruct counsel from outside the courtroom, through the use of communications technology, if required. Such measures shall be taken only in exceptional circumstances after other reasonable alternatives have proved inadequate, and only for such duration is strictly required (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 63 stand part of the Treaty, put and agreed to.

ARTICLE 64—FUNCTIONAL AND POWER OF THE TRIAL CHAMBER

1. The functions and powers of the Trial Chamber set out in this article shall be exercised in accordance with this statute and the Rules of Procedure and Evidence.
2. The Trial chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses.
3. Upon assignment of a case for trial in accordance with this Statute, the Trial Chamber assigned to deal with the case:

- (a) confer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings;
 - (b) determine the language or languages to be used at trial; and
 - (c) subject to any other relevant provisions of this Statute, provide for disclosure of documents or information not previously disclosed, sufficiently in advance of the commencement of the trial to enable adequate preparation for trial.
4. The Trial Chamber may, if necessary for its effective and fair functioning, refer preliminary issues to the Pre-Trial Chamber or, if necessary, to another available judge of the Pre-Trial Division.
 5. Upon notice to the parties, the Trial Chamber may, as appropriate, direct that there be joinder or severance in respect of charges against more than one accused.
 6. In performing its functions prior to trial or during the course of a trial, the Trial Chamber may, as necessary:
 - (a) exercise any functions of the Pre-Trial Chamber referred to in Article 61, paragraph 11;
 - (b) require the attendance and testimony of witnesses and production of documents and other evidence by obtaining, if necessary the assistance of states as provided in this statute;
 - (c) provide for the protection of confidential information;
 - (d) order the production of evidence in addition to that already collected prior to the trial or presented during the trial to the parties;
 - (e) provide for the protection of the accused, witnesses and victims; and
 - (f) rule on any other relevant matters.
 7. The trial shall be held in public. The Trial Chamber may, however, determine that special circumstances require that certain proceedings be in closed session for the purposes set forth in Article 68, or to protect confidential or sensitive information to be given in evidence.
 8.
 - (a) At the commencement of the trial, the Trial Chamber shall have read to the accused the charges previously confirmed by the Pre-Trial Chamber. The Trial Chamber shall satisfy itself that the accused understands the nature of the charges. It shall afford him or her the opportunity to make an admission of guilt in accordance with article 65 or to plead not guilty.
 - (b) At the trial, the presiding judge may give directions for the conduct of proceedings, including to ensure that they are conducted in a fair and impartial manner. Subject to any directions of the presiding judge, the parties may submit evidence in accordance with the provisions of this statute.
 9. The Trial Chamber shall have, inter alia, the power on application of a party or on its own motion to:
 - (a) rule on the admissibility or relevance of evidence; and
 - (b) take all necessary steps to maintain order in the course of a hearing.
 10. The Trial Chamber shall ensure that a complete record of the trial, which accurately reflects the proceedings, is made and that it is maintained and preserved by the Registrar (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 64 stand part of the Treaty, put and agreed to.

ARTICLE 65—PROCEEDINGS ON AN ADMISSION OF GUILT

1. Where the accused makes an admission of guilt pursuant to Article 64, paragraph 8 (a), the Trial Chamber shall determine whether:

- (a) the accused understands the nature and consequences of the admission of guilt;
 - (b) the admission is voluntarily made by the accused after sufficient consultation with defence counsel; and
 - (c) the admission of guilt is supported by the facts of the case that are contained in—
 - (i) the charges brought by the Prosecutor and admitted by the accused;
 - (ii) any materials presented by the Prosecutor which supplement the charges and which the accused accepts; and
 - (iii) any other evidence, such as the testimony of witnesses, presented by the Prosecutor or the accused.
2. Where the Trial Chamber is satisfied that the matters referred to in paragraph 1 are established, it shall consider the admission of guilt, together with any additional evidence presented, as establishing all the essential facts that are required to prove the crime to which the admission of guilt relates, and may convict the accused of that crime.
3. Where the Trial Chamber is not satisfied that the matters referred to in paragraph 1 are established, it shall consider the admission of guilt as not having been made, in which case it shall order that the trial be continued under the ordinary trial procedures provided by this Statute and may remit the case to another Trial Chamber.
4. Where the Trial Chamber is of the opinion that a more Complete presentation of the facts of the case is required in the interests of justice, in particular the interests of the victims, the Trial Chamber may:
- (a) request the Prosecutor to present additional evidence, including the testimony of witnesses; or
 - (b) order that the trial be continued under the ordinary trial procedures provided by this Statute, in which case it shall consider the admission of guilt as not having been made and may remit the case to another Trial Chamber.
5. Any discussions between the Prosecutor and the defence regarding modification of the charges, the admission of guilt or the penalty to be imposed shall not be binding on the Court (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 65 stand part of the Treaty, put and agreed to.

ARTICLE 66—PRESUMPTION OF INNOCENCE

- 1. Everyone shall be presumed innocent until proved guilty before the Court in accordance with the applicable law.
- 2. The onus is on the Prosecutor to prove the guilt of the accused.
- 3. In order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 66 stand part of the Treaty, put and agreed to.

ARTICLE 67—RIGHTS OF THE ACCUSED

- 1. In the determination of any charge, the accused shall be entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially, and to the following minimum guarantees in full equality:
 - (a) to be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks;
 - (b) to have adequate time and facilities for the preparation of the defence and to communicate freely with counsel of the accused's choosing in confidence;

- (c) to be tried without undue delay;
 - (d) subject to Article 63, paragraph 2, to be present at the trial to conduct the defence in person or through legal assistance of the accused's choosing, to be informed, if the accused does not have legal assistance, of this right and to have legal assistance assigned by the court in any case where the interests of justice so require, and without payment if the accused lacks sufficient means to pay for it;
 - (e) to examine or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her. The accused shall also be entitled to raise defences and to present other evidence admissible under this Statute;
 - (f) to have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness, if any of the proceedings or documents presented to the Court are not in a language which the accused fully understands and speaks;
 - (g) not to be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
 - (h) to make unsworn oral or written statement in his or her defence; and
 - (i) not to have imposed on him or her any reversal of the burden of proof or any onus of rebuttal.
2. In addition to any other disclosure provided for in this Statute, the Prosecutor shall, as soon as practicable, disclose to the defence evidence in the prosecutor's possession or control which he or she believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence. In case of doubt as to the application of this paragraph, the Court shall decide (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 67 stand part of the Treaty, put and agreed to.

ARTICLE 68—PROTECTION OF THE VICTIMS AND WITNESSES AND THEIR PARTICIPATION IN THE PROCEEDINGS

1. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the court shall have regard to all relevant factors, including age, gender as defined in Article 2, paragraph 3, and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.
2. As an exception to the principle of public hearings provided for in Article 67, the Chambers of the Court may, to protect victims and witnesses or an accused, conduct any part of the proceedings in camera or allow the presentation of evidence by electronic or other special means. In particular, such measures shall be implemented in the case of a victim of sexual violence or a child who is a victim or a witness, unless otherwise ordered by the Court, having regard to all the circumstances, particularly the views of the victim or witness.
3. Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stage of the proceedings determined to be appropriate by the court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.
4. The Victims and Witnesses Unit may advise the Prosecutor and the Court on appropriate protective measures, security arrangements, counseling and assistance as referred to in Article 43, paragraph 6.

5. Where the disclosure of evidence or information pursuant to this Statute may lead to the grave endangerment of the security of a witness or his or her family, the Prosecutor may, for the purposes of any proceedings conducted prior to the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.
6. A State may make application for necessary measures to be taken in respect of the protection of its servants or agents and the protection of confidential or sensitive information (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 68 stand part of the Treaty, put and agreed to.

ARTICLE 69—EVIDENCE

1. Before testifying each witness shall, in accordance with the Rules of Procedure and Evidence, give an undertaking as to the truthfulness of the evidence to be given by that witness.
2. The testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in Article 68 or in the Rules of Procedure and Evidence. The court may also permit the giving of viva voce (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.
3. The parties may submit evidence relevant to the case, in accordance with Article 64. The Court shall have the authority to request the submission of all evidence that it considers necessary for the determination of the truth.
4. The Court may rule on the relevance or admissibility of any evidence, taking into account, inter alia, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.
5. The Court shall respect and observe privileges on confidentiality as provided for in the Rules of Procedure and Evidence.
6. The Court shall not require proof of facts of common knowledge but may take judicial notice of them.
7. Evidence obtained by means of a violation of this Statute or internationally recognized human rights shall not be admissible if:
 - (a) the violation casts substantial doubt on the reliability of the evidence; or
 - (b) the admission of the evidence would be antithetical to and would seriously damage the integrity of the proceedings.
8. When deciding on the relevance or admissibility of evidence collected by a State, the court shall not rule on the application of the State's national law (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 69 stand part of the Treaty, put and agreed to.

ARTICLE 70—OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE

1. The Court shall have jurisdiction over the, following offences against its administration of justice when committed intentionally:
 - (a) giving false testimony when under an obligation pursuant to Article 69, paragraph 1, to tell the truth;
 - (b) presenting or influencing a witness, obstructing or interfering with the attendance or testimony of a witness, retaliating against a witness for giving testimony or destroying, tempering with or interfering with the collection of evidence;

- (c) impending intimidating or corruptly influencing an official of the court for the purpose of forcing or persuading the official not to perform, or to perform improperly, his or her duties.
 - (d) retaliating against an official of the court on account of duties performed by that or another Official;
 - (e) soliciting or accepting a bribe as an official of the court in conjunction with his or her official duties.
2. The principles and procedures governing the Court's exercise of jurisdiction over offences under this article shall be those provided for in the Rules of Procedure and Evidence. The conditions for providing international cooperation to the Court with respect to its proceedings under this article shall be governed by the domestic laws of the requested State.
 3. In the event of conviction, the Court may impose a term of imprisonment not exceeding five years, or a fine in accordance with the Rules of Procedure and Evidence, or both.
 4.
 - (a) Each State Party shall extend its criminal laws penalizing offences against the integrity of its own investigative or judicial process to offences against the administration of justice referred to in this article, committed on its territory, or by one of its nationals.
 - (b) Upon request by the Court, whenever it deems it proper, the State Party shall submit the case to its competent authorities for the purpose of prosecution. Those authorities shall treat such cases with diligence and devote sufficient resources to enable them to be conducted effectively (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 70 stand part of the Treaty, put and agreed to.

ARTICLE 71—SANCTIONS FOR MISCONDUCT BEFORE THE COURT

1. The Court may sanction persons present before it who commit misconduct, including disruption of its proceedings or deliberate refusal to comply with its directions by administrative measures other than imprisonment, such as temporary or permanent removal from the courtroom, a fine or other similar measures provided for in the Rules of Procedure and evidence.
2. The procedures governing the imposition of the measures set forth in paragraph 1 shall be those provided for in the Rules of Procedure and Evidence (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 71 stand part of the Treaty, put and agreed to.

ARTICLE 72—PROTECTION OF NATIONAL SECURITY INFORMATION

1. This article applies in any case where the disclosure of the information or documents of a State would, in the opinion of that state, prejudice its national Security interests. Such cases include those falling within the scope of Article 56, paragraphs 2 and 3, Article 61, paragraph 3, Article 64, paragraph 3, Article 67, paragraph 2, Article 68, paragraph 6, Article 87, paragraph 6, and Article 93, as well as cases arising at any other stage of the proceedings where such disclosure may be at issue.
2. This article shall also apply when a person who has been requested to give information or evidence has refused to do so or has referred the matter to the State on the ground that disclosure would prejudice the national security interests of a State and the State concerned confirms that it is of the opinion that disclosure would prejudice its national security interests.
3. Nothing in this article shall prejudice the requirements of confidentiality applicable under Article 54, paragraph 3 (e) and (f), or the application of Article 73.
4. If a State learns that information or documents of the State are being, or are likely to be, disclosed at any stage of the proceedings, and it is of the opinion that disclosure would prejudice its national security interests, that State shall have the right to intervene in order to obtain resolution of the issue in accordance with this article.

5. If, in the opinion of a State, disclosure of information would prejudice its national security interests, all reasonable steps will be taken by the State, acting in conjunction with the Prosecutor, the Defence or the Pre-Trial Chamber or Trial Chamber, as the case may be, to seek to resolve the matter by cooperative means. Such steps may include:
 - (a) modification or clarification of the request;
 - (b) a determination by the Court regarding the relevance of the information or evidence sought, or a determination as to whether the evidence, though relevant, could be or has been obtained from a source other than the requested State;
 - (c) obtaining the information or evidence from a different source or in a different form; or
 - (d) agreement on conditions under which the assistance could be provided including, among other things, providing summaries or reductions, limitations on disclosure, use of in camera or ex parte proceedings, or other protective measures permissible under the Statute and the Rules.
6. Once all reasonable steps have been taken to resolve the matter through cooperative means, and if the State considers that there are no means or conditions under which the information or documents could be provided or disclosed without prejudice to its national security interests, it shall so notify the Prosecutor or the Court of the specific reasons for its decision, unless a specific description of the reasons would itself necessarily result in such prejudice to the State's national security interests.
7. Thereafter, if the Court determines that the evidence is relevant and necessary for the establishment of the guilt or innocence of the accused, the Court may undertake the following actions:
 - (a) where disclosure of the information or document is sought pursuant to a request for cooperation under Part 9 or the circumstances described in paragraph 2, and the State has invoked the ground for refusal referred to in Article 93, paragraph 4:
 - (i) the Court may, before making any conclusion referred to in subparagraph 7 (a) (ii), request further consultations for the purpose of considering the State's representations, which may include, as appropriate, hearing in camera and *ex parte*;
 - (ii) if the Court concludes that, by invoking the ground for refusal under Article 93, paragraph 4, in the circumstances of the case, the requested State is not acting in accordance with its obligations under the Statute, the Court may refer the matter in accordance with Article 87, Paragraph 7, specifying the reasons for its conclusion; and
 - (iii) the Court may make such inference in the trial of the accused as to the existence or nonexistence of a fact, as may be appropriate in the circumstances; or
 - (b) in all other circumstances:
 - (i) order disclosure; or
 - (ii) to the extent it does not order disclosure, make such inference in the trial of the accused as to the existence or nonexistence of a fact, as may be appropriate in the circumstances (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 72 stand part of the Treaty, put and agreed to.

ARTICLE 73—THIRD PARTY INFORMATION OR DOCUMENTS

If a State Party is requested by the Court to provide a document or information in its custody, possession or control which was disclosed to it in confidence by a State, intergovernmental organization or international organization, it shall seek the consent of the originator to disclose that document or information. If the originator is a State Party, it shall either consent to disclosure of the information or document or undertake to resolve the issue of disclosure with the Court, subject to the provisions of Article 72. If the originator is not a State Party and refuses consent to disclosure, the requested State shall inform the Court that it is unable to provide the document or information because of a preexisting obligation of confidentiality to the originator (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 73 stand part of the Treaty, put and agreed to.

ARTICLE 74—REQUIREMENTS FOR THE DECISION

1. All the judges of the Trial Chamber shall be present at each stage of the trial and throughout their deliberations. The Presidency may, on a case-by-case basis, designate, as available, one or more alternate judges to be present at each stage of the trial and to replace a member of the Trial Chamber if that member is unable to continue attending.
2. The Trial Chamber's decision shall be based on its evaluation of the evidence and the entire proceedings. The decision shall not exceed the facts and circumstances described in the charges and any amendments to the charges. The Court may base its decision only on evidence submitted and discussed before it at the trial.
3. The judges shall attempt to achieve unanimity in their decision, failing which the decision shall be taken by a majority of the judges.
4. The deliberations of the Trial Chamber shall remain secret.
5. The decision shall be in writing and shall contain a full and reasoned statement of the Trial Chamber's findings on the evidence and conclusions. The Trial Chamber shall issue one decision. When there is no unanimity, the Trial Chamber's decision shall contain the views of the majority and the minority. The decision or a summary thereof shall be delivered in open court (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 74 stand part of the Treaty, put and agreed to.

ARTICLE 75—REPARATIONS TO VICTIMS

1. The court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of victims and will state the principles on which it is acting.
2. The court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of victims, including restitution, compensation and rehabilitation. Where appropriate, the court may order that the award for reparations be made through the Trust Fund provided for in Article 79.
3. Before making an order under this article, the court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.
4. In exercising its power under this article, the court may, after a person is convicted of a crime within the jurisdiction of the court, determine whether, in order to give effect to an order which it may make under this article, it is necessary to seek measures under Article 93, Paragraph 1.
5. A State Party shall give effect to a decision under this Article as if the provisions of Article 109 were applicable to this article.
6. Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 75 stand part of the Treaty, put and agreed to.

ARTICLE 76—SENTENCING

1. In the event of a conviction, the Trial Chamber shall consider the appropriate sentence to be imposed and shall take into account the evidence presented and submissions made during the trial that are relevant to the sentence.
2. Except where Article 65 applies and before the completion of the trial, the Trial Chamber may on its own motion and shall, at the request of the Prosecutor or the accused, hold a further hearing to hear any additional evidence or submissions relevant to the sentence, in accordance with the Rules of Procedure and Evidence.

3. Where paragraph 2 applies, any representation under Article 75 shall be heard during the further hearing referred to in Paragraph 2 and, if necessary, during any additional hearing.
4. The sentence shall be pronounced in public and, wherever possible, in the presence of the accused (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 76 stand part of the Treaty, put and agreed to.

PART 7—PENALTIES

ARTICLE 77—APPLICABLE PENALTIES

1. Subject to Article 110, the court may impose one of the following penalties on a person convicted of a crime under Article 5 of this Statute:
 - (a) imprisonment for a specified number of years, which may not exceed a maximum of 30 years; or
 - (b) a term of life imprisonment when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.
2. In addition to imprisonment, the court may order:
 - (a) a fine under the criteria provided for in the Rules of Procedure and Evidence;
 - (b) a forfeiture of proceeds, property and assets derived directly or indirectly from that crime, without prejudice to the rights of *bona fide* third parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 77 stand part of the Treaty, put and agreed to.

ARTICLE 78—DETERMINATION OF THE SENTENCE

1. In determining the sentence, the court shall, in accordance with the Rules of Procedure and Evidence, take into account such factors as the gravity of the crime and the individual circumstances of the convicted person.
2. In imposing a sentence of imprisonment, the court shall deduct the time, if any, previously spent in detention in accordance with an order of the Court. The court may deduct any time otherwise spent in detention in connection with conduct underlying the crime.
3. When a person has been convicted of more than one crime, the court shall pronounce a sentence for each crime and a joint sentence specifying the total period of imprisonment. This period shall be no less than the highest individual sentence pronounced and shall not exceed 30 years imprisonment or a sentence of life imprisonment in conformity with Article 77, paragraph 1 (b) (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 78 stand part of the Treaty, put and agreed to.

ARTICLE 79—TRUST FUND

1. A Trust Fund shall be established by decision of the Assembly of States Parties for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims.
2. The Court may order money and other property collected through fines or forfeiture to be transferred, by order of the Court, to the Trust Fund.
3. The Trust Fund shall be managed according to criteria to be determined by the Assembly of States Parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 79 stand part of the Treaty, put and agreed to.

ARTICLE 80—NON-PREJUDICE TO NATIONAL APPLICATION OF PENALTIES AND NATIONAL LAW

Nothing in this Part of the Statute affects the application by States of penalties prescribed by their National Law, nor the law of States which do not provide for penalties prescribed in this Part (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 80 stand part of the Treaty, put and agreed to.

PART 8—APPEAL AND REVISION

ARTICLE 81—APPEAL AGAINST DECISION OF ACQUITTAL OR CONVICTION OR AGAINST SENTENCE

1. A decision under Article 74 may be appealed in accordance with the Rules of Procedure and Evidence as follows:
 - (a) the Prosecutor may make an appeal on any of the following grounds:
 - (i) procedural error;
 - (ii) error of fact; or
 - (iii) error of law.
 - (b) the convicted person or the Prosecutor on that person's behalf may make an appeal on any of the following grounds:
 - (i) procedural error;
 - (ii) error of fact;
 - (iii) error of law; or
 - (iv) any other ground that affects the fairness or reliability of the proceedings or decision.
2.
 - (a) A sentence may be appealed, in accordance with the Rules of Procedure and Evidence, by the Prosecutor or the convicted person on the ground of disproportion between the crime and the sentence.
 - (b) If on an appeal against sentence the Court considers that there are grounds on which the conviction might be set aside, wholly or in part, it may invite the Prosecutor and the convicted person to submit grounds under Article 81, paragraph 1 (a) or (b), and may render a decision on conviction in accordance with Article 83.
 - (c) The same procedure applies when the Court, on an appeal against conviction only, considers that there are grounds to reduce the sentence under paragraph 2 (a).
3.
 - (a) Unless the Trial Chamber orders otherwise, a convicted person shall remain in custody pending and appeal.
 - (b) When a convicted person's time in custody, exceeds the sentence of imprisonment imposed, that person shall be released, except that if the Prosecutor is also appealing, the release may be subject to the conditions under subparagraph (c) below.
 - (c) In case of an acquittal, the accused shall be released immediately, subject to the following:
 - (i) under exceptional circumstances, and having regard, inter alia, to the concrete risk of flight, the seriousness of the offence charged and the probability of success on appeal, the Trial Chamber, at the request of the Prosecutor, may maintain the detention of the person pending appeal;
 - (ii) a decision by the Trial Chamber under subparagraph (c) (i) may be appealed in accordance with the Rules of Procedure and Evidence.

4. Subject to the provisions of paragraph 3 (a) and (b), execution of the decision or sentence shall be suspended during the period allowed for appeal and for the duration of the appeal proceedings (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 81 stand part of the Treaty, put and agreed to.

ARTICLE 82—APPEAL AGAINST OTHER DECISIONS

1. Either Party may appeal any of the following decisions in accordance with the Rules of Procedure and Evidence
 - (a) a decision with respect to jurisdiction or admissibility;
 - (b) a decision granting or denying release of the person being investigated or prosecuted;
 - (c) a decision of the Pre-Trial Chamber to act on its own initiative under Article 56, paragraph 3;
 - (d) a decision that involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Pre-Trial or Trial Chamber, and immediate resolution by the Appeals Chamber may materially advance the proceedings.
2. A decision of the Pre-Trial Chamber under Article 57, paragraph 3 (d), may be appealed against by the State concerned or by the Prosecutor, with the leave of the Pre-Trial Chamber. The appeal shall be heard on an expedited basis.
3. An appeal shall not of itself have suspensive effect unless the Appeals Chamber so orders, upon request, in accordance with the Rules of Procedure and Evidence.
4. A legal representative of the victims, the convicted person or a *bona fide* owner of property adversely affected by an order under Article 73 may appeal against the order for reparations, as provided in the Rules of Procedure and Evidence (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 82 stand part of the Treaty, put and agreed to.

ARTICLE 83—PROCEEDINGS ON APPEAL

1. For the purposes of proceedings under Article 81 and this article, the Appeals Chamber shall have all the powers of the Trial Chamber.
2. If the Appeals Chamber finds that proceedings appealed from were unfair in a way that affected the reliability of the decision or sentence, or that the decision or sentence appealed from was materially affected by error of fact or law or procedural error, it may:
 - (a) reverse or amend the decision or sentence; or
 - (b) order a new trial before a different Trial Chamber.

For these purposes, the Appeals Chamber may remand a factual issue to the original Trial Chamber for it to determine the issue and to report back accordingly, or may itself call evidence to determine the issue. When the decision or sentence has been appealed only by the person convicted, or the Prosecutor on that person's behalf, it cannot be amended to his or her detriment.
3. If in an appeal against sentence the Appeals Chamber finds that the sentence is disproportionate to the crime, it may vary the sentence in accordance with Part 7.
4. The judgment of the Appeals Chamber shall be taken by a majority of the judges and shall be delivered in open court. The judgment shall state the reasons on which it is based. When there is no unanimity, the judgment of the Appeals Chamber shall contain the views of the majority and the minority, but a judge may deliver a separate or dissenting opinion on a question of law.
5. The Appeals Chamber may deliver its judgment in the absence of the person acquitted or convicted (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 83 stand part of the Treaty, put and agreed to.

ARTICLE 84—REVISION OF CONVICTION OR SENTENCES

1. The convicted person or, after death, spouses, children, parents or one person alive at the time of the accused's death who has been given express written instructions from the accused to bring such a claim, or the Prosecutor to the person's behalf, may apply to the Appeals Chamber to revise the final judgment of conviction or sentence on the grounds that:
 - (a) new evidence has been discovered that:
 - (i) was not available at the time of trial, and such unavailability was not wholly or partially attributable to the party making application; and
 - (ii) is sufficiently important that had it been proved at trial it would have been likely to have resulted in a different verdict;
 - (b) it has been newly discovered that decisive evidence, taken into account at trial and upon which the conviction depends, was false, forged or falsified;
 - (c) one or more of the judges who participated in conviction or confirmation of the charges has committed, in that case, an act of serious misconduct or serious breach of duty of sufficient gravity to justify the removal of that judge or those judges from office under Article 46.
2. The Appeals Chamber shall reject the application if it considers it to be unfounded. If it determines that the application is meritorious, it may, as appropriate:
 - (a) reconvene the original Trial Chamber;
 - (b) constitute a new Trial Chamber; or
 - (c) retain jurisdiction over the matter,with a view to, after hearing the Parties in the manner set forth in the Rules of Procedure and Evidence, arriving at a determination on whether the judgment should be revised (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 84 stand part of the Treaty, put and agreed to.

ARTICLE 85—COMPENSATION TO AN ARRESTED OR CONVICTED PERSON

1. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.
2. When a person has by a final decision been convicted of a criminal offence, and when subsequently his or her conviction has been reversed on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non disclosure of the unknown fact in time is wholly or partly attributable to him or her.
3. In exceptional circumstances, where the Court finds conclusive facts showing that there has been a grave and manifest miscarriage of justice, it may in its discretion award compensation, according to the criteria provided in the Rules of Procedure and Evidence, to a person who has been released from detention following a final decision of acquittal or a termination of the proceedings for that reason (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 85 stand part of the Treaty, put and agreed to.

PART 9—INTERNATIONAL COOPERATION AND JUDICIAL ASSISTANCE

ARTICLE 86—GENERAL OBLIGATION TO COOPERATE

States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provision in Article 86 stand part of the Treaty, put and agreed to.

ARTICLE 87—REQUESTS FOR COOPERATION: GENERAL PROVISIONS

1. (a) The Court shall have the authority to make requests to States Parties for cooperation. The requests shall be transmitted through the diplomatic channel or any other appropriate channel as may be designated by each State Party upon ratification, acceptance, approval or accession.

Subsequent changes to the designation shall be made by each State Party in accordance with the Rules of Procedure and Evidence.

- (b) When appropriate, without prejudice to the provisions of subparagraph (a), requests may also be transmitted through the International Criminal Police Organization or any appropriate regional organization.

2. Requests for cooperation and any documents supporting the request shall either be in or be accompanied by a translation into an official language of the Requested State or in one of the working languages of the Court, in accordance with the choice made by that State upon ratification, acceptance, approval or accession.

Subsequent changes to this choice shall be made in accordance with the Rules of Procedure and Evidence.

3. The Requested State shall keep confidential a request for cooperation and any documents supporting the request, except to the extent that the disclosure is necessary for execution of the request.

4. In relation to any request for assistance presented under Part 9, the Court may take such measures, including measures related to the protection of information, as may be necessary to ensure the safety or physical or psychological well-being of any victims, potential witnesses and their families. The Court may request that any information that is made available under Part 9 shall be provided and handled in a manner that protects the safety and physical or psychological well-being of any victims, potential witnesses and their families.

5. The Court may invite any State not party to this Statute to provide assistance under this Part on the basis of an *ad-hoc* arrangement, an agreement with such State or any other appropriate basis.

Where a State not party to this Statute, which has entered into an *ad-hoc* arrangement or an agreement with the Court, fails to cooperate with requests pursuant to any such arrangement or agreement, the Court may so inform the Assembly of States Parties or, where the Security Council referred the matter to the Court, the Security Council.

6. The Court may ask any intergovernmental organization to provide information or documents. The Court may also ask for other forms of cooperation and assistance which may be agreed upon with such an organization and which are in accordance with its competence or mandate.

7. Where a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute, thereby preventing the Court from exercising its functions and powers under this Statute, the Court may make a finding to that effect and refer the matter to the Assembly of States Parties or, where the Security Council referred the matter to the Court, to the Security Council (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 87 stand part of the Treaty, put and agreed to.

ARTICLE 88—AVAILABILITY OF PROCEDURES UNDER NATIONAL LAW

States Parties shall ensure that there are procedures available under their national law for all of the forms of cooperation which are specified under this Part (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 88 stand part of the Treaty, put and agreed to.

ARTICLE 89—SURRENDER OF PERSONS TO THE COURT

1. The Court may transmit a request for the arrest and surrender of a person, together with the material supporting the request outlined in Article 91, to any State on the territory of which that person may

be found and shall request the cooperation of that State in the arrest and surrender of such a person. States Parties shall, in accordance with the provisions of this Part and the procedure under their national law, comply with requests for arrest and surrender.

2. Where the person sought for surrender brings a challenge before a national court on the basis of the principle of *ne bis in idem* as provided in Article 20, the requested State shall immediately consult with the Court to determine if there has been a relevant ruling on admissibility. If the case is admissible, the requested State shall proceed with the execution of the request. If an admissibility ruling is pending, the requested State may postpone the execution of the request for surrender of the person until the Court makes a determination on admissibility.
3. (a) A State Party shall authorize, in accordance with its national procedural law, transportation through its territory of a person being surrendered to the Court by another State, except where transit through that State would impede or delay the surrender.
(b) A request by the Court for transit shall be transmitted in accordance with Article 87. The request for transit shall contain:
 - (i) a description of the person being transported;
 - (ii) a brief statement of the facts of the case and their legal characterization; and
 - (iii) the warrant for arrest and surrender.(c) A person being transported shall be detained in custody during the period of transit.
(d) No authorization is required if the person is transported by air and no landing is scheduled on the territory of the transit State.
(e) If an unscheduled landing occurs on the territory of the transit State, that may require a request for transit from the Court as provided for in subparagraph (b). The transit State shall detain the person being transported until the request for transit is received and the transit is effected; provided that detention for purposes of this subparagraph may not be extended beyond 96 hours from the unscheduled landing unless the request is received within that time.
4. If the person sought is being proceeded against or is serving a sentence in the requested State for a crime different from that for which surrender to the Court is sought, the requested State, after making its decision to grant the request, shall consult with the Court (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 89 stand part of the Treaty, put and agreed to.

ARTICLE 90—COMPETING REQUESTS

1. A State Party which receives a request from the Court for the surrender of a person under Article 89 shall, if it also receives a request from any other State for the extradition of the same person for the same conduct which forms the basis of the crime for which the Court seeks the person's surrender, notify the Court and the Requesting State of that fact.
2. Where the requesting State is a State Party, the requested State shall give priority to the request from the Court if:
 - (a) the Court has, pursuant to Articles 18 and 19, made a determination that the case in respect of which surrender is sought is admissible and that determination takes into account the investigation or prosecution conducted by the requesting State in respect of its request for extradition; or
 - (b) the Court awakes the determination described in subparagraph (a) pursuant to the requested State's notification under paragraph 1.
3. Where a determination under paragraph 2 (a) has not been made, the requested State may, at its discretion, pending the determination of the Court under paragraph 2 (b), proceed to deal with the request for extradition from the requesting State but shall not extradite the person until the Court has

determined that the case is inadmissible. The Court's determination shall be made on an expedited basis.

4. If the Requesting State is a State not Party to this Statute the Requested State, if it is not under an international obligation to extradite the person to the Requesting State, shall give priority to the request for surrender from the Court, if the Court has determined that the case is admissible.
5. Where a case under paragraph 4 has not been determined to be admissible by the Court, the Requested State may, at its discretion, proceed to deal with the request for extradition from the Requesting State.
6. In cases where paragraph 4 applies except that the Requested State is under an existing international obligation to extradite the person to the Requesting State not Party to this Statute, the Requested State shall determine whether to surrender the person to the Court or extradite the person to the Requesting State. In making its decision, the Requested State shall consider all the relevant factors, including but not limited to:
 - (a) the respective dates of the requests;
 - (b) the interests of the Requesting State including, where relevant, whether the crime was committed in its territory and the nationality of the victims and of the person sought; and
 - (c) the possibility of subsequent surrender between the Court and the requesting State.
7. Where a State Party which receives a request from the Court for the surrender of a person also receives a request from any State for the extradition of the same person for conduct other than that which constitutes the crime for which the Court seeks the person's surrender:
 - (a) the requested State shall, if it is not under an existing international obligation to extradite the person to the Requesting State, give priority to the request from the Court;
 - (b) the Requested State shall, if it is under an existing international obligation to extradite the person to the Requesting State, determine whether to surrender the person to the Court or extradite the person to the Requesting State. In making its decision, the Requested State shall consider all the relevant factors, including but not limited to those set out in paragraph 6, but shall give special consideration to the relative nature and gravity of the conduct in question.
8. Where pursuant to a notification under this article, the Court has determined a case to be inadmissible, and subsequently extradition to the requesting State is refused, the Requested State shall notify the Court of this decision (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 90 stand part of the Treaty, put and agreed to.

ARTICLE 91—CONTENTS OF REQUEST FOR ARREST AND SURRENDER

1. A request for arrest and surrender shall be made in writing. In urgent cases, a request may be made by any medium capable of delivering a written record, provided that the request shall be confirmed through the channel provided for in Article 87, paragraph 1 (a).
2. In the case of a request for the arrest and surrender of a person for whom a warrant of arrest has been issued by the Pre-Trial Chamber under Article 58, the request shall contain or be supported by:
 - (a) information describing the person sought, sufficient to identify the person, and information as to that person's probable location;
 - (b) a copy of the warrant of arrest; and
 - (c) such documents, statements or information as may be necessary to meet the requirements for the surrender process in the Requested State, except that those requirements should not be more burdensome than those applicable to requests for extradition pursuant to treaties or arrangements between the Requested State and other States and should, if possible, be less burdensome, taking into account the distinct nature of the Court.

3. In the case of a request for the arrest and surrender of a person already convicted, the request shall contain or be supported by:
 - (a) a copy of any warrant of arrest for that person;
 - (b) a copy of the judgment of conviction;
 - (c) information to demonstrate that the person sought is the one referred to in the judgment of conviction; and
 - (d) if the person sought has been sentenced, a copy of the sentence imposed and, in the case of a sentence for imprisonment, a statement of any time already served and the time remaining to be served.
4. Upon the request of the Court, a State Party shall consult with the Court, either generally or with respect to a specific matter, regarding any requirements under its national law that may apply under paragraph 2 (c). During the consultations, the State Party shall advise the Court of the specific requirements of its national law (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 91 stand part of the Treaty, put and agreed to.

ARTICLE 92—PROVISIONAL ARREST

1. In urgent cases, the Court may request the provisional arrest of the person sought, pending presentation of the request for surrender and the documents supporting the request as specified in Article 91.
2. The request for provisional arrest shall be made by any medium capable of delivering a written record and shall contain:
 - (a) information describing the person sought, sufficient to identify the person, and information as to that person's probable location;
 - (b) a concise statement of the crimes for which the person's arrest is sought and of the facts which are alleged to constitute those crimes, including where possible, the date and location of the crime;
 - (c) a statement of the existence of a warrant of arrest or a judgement of conviction against the person sought, and
 - (d) a statement that a request for surrender of the person sought will follow.
3. A person who is provisionally arrested may be released from custody if the requested State has not received the request for surrender and the documents supporting the request as specified in Article 91 within the time limits specified in the Rules of Procedure and Evidence. However, the person may consent to surrender before the expiration of this period if permitted by the law of the Requested State. In such a case, the Requested State shall proceed to surrender the person to the Court as soon as possible.
4. The fact that the person sought has been released from custody pursuant to paragraph 3 shall not prejudice the subsequent arrest and surrender of that person if the request for surrender and the documents supporting the request are delivered at a later date (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 92 stand part of the Treaty, put and agreed to.

ARTICLE 93—OTHER FORMS OF COOPERATION

1. States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions:
 - (a) the identification and whereabouts of persons or the location of items;
 - (b) the taking of evidence, including testimony under oath, and the production of evidence, including expert opinions and reports necessary to the Court;

- (c) the questioning of any person being investigated or prosecuted;
 - (d) the service of documents, including judicial documents;
 - (e) facilitating the voluntary appearance of persons as witnesses or experts before the Court;
 - (f) the temporary transfer of persons as provided in paragraph 7;
 - (g) the examination of places or sites, including the exhumation and examination of grave sites;
 - (h) the execution of searches and seizures;
 - (i) the provision of records and documents, including official records and documents;
 - (j) the protection of victims and witnesses and the preservation of evidence;
 - (k) the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalists of crimes for the purpose of eventual forfeiture, without prejudice to the rights of *bona fide* third parties; and
 - (l) any other type of assistance which is not prohibited by the law of the Requested State, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Court.
2. The Court shall have the authority to provide an assurance to a witness or an expert appearing before the Court that he or she will not be prosecuted, detained or subjected to any restriction of personal freedom by the Court in respect of any act or omission that preceded the departure of that person from the Requested State.
3. Where execution of a particular measure of assistance detailed in a request presented under paragraph 1, is prohibited in the Requested State on the basis of an existing fundamental legal principle of general application, the Requested State shall promptly consult with the Court to try to resolve the matter. In the consultations, consideration should be given to whether the assistance can be rendered in another manner or subject to conditions. If after consultations the matter cannot be resolved, the Court shall modify the request as necessary.
4. In accordance with Article 72, a State Party may deny a request for assistance, in whole or in part, only if the request concerns the production of any documents or disclosure of evidence which relates to its national security.
5. Before denying a request for assistance under paragraph 1 (1), the Requested State shall consider whether the assistance can be provided subject to specified conditions, or whether the assistance can be provided at a later date or in an alternative manner, provided that in the Court or the Prosecutor accepts the assistance subject to conditions, the Court or the Prosecutor shall abide by them.
6. If a request for assistance is denied, the Requested State Party shall promptly inform the Court or the Prosecutor of the reasons for such denial.
7. (a) The Court may request the temporary transfer of a person in custody for purposes of identification or for obtaining testimony or other assistance. The person may be transferred if the following conditions are fulfilled:
- (i) the person freely given his or her informed consent to the transfer; and
 - (ii) the Requested State agrees to the transfer, subject to such conditions as that State and the Court may agree.
- (b) The person being transferred shall remain in custody. When the purposes of the transfer have been fulfilled, the Court shall return the person without delay to the Requested State.
8. (a) The Court shall ensure the confidentiality of documents and information, except as required for the investigation and proceedings described in the request.

- (b) The Requested State may, when necessary, transmit documents or information to the Prosecutor on a confidential basis. The Prosecutor may then use them solely for the purpose of generating new evidence.
 - (c) The Requested State may, on its own motion or at the request of the Prosecutor, subsequently consent to the disclosure of such documents or information. They may then be used as evidence pursuant to the provisions of Parts 5 and 6 and in accordance with the Rules of Procedure and Evidence.
9. (a) (i) In the event that a State Party receives competing requests, other than for surrender or extradition, from the Court and from another State pursuant to an international obligation, the State Party shall endeavour, in consultation with the Court and the other State, to meet both requests, if necessary by postponing or attaching conditions to one or the other request.
- (ii) Failing that, competing requests shall be resolved in accordance with the principles established in Article 90.
- (b) Where, however, the request from the Court concerns information, property or persons which are subject to the control of a third State or an international organization by virtue of an international agreement, the Requested States shall so inform the Court and the Court shall direct its request to the third State or international organization.
10. (a) The Court may, upon request, cooperate with and provide assistance to a State Party conducting an investigation into or trial in respect of conduct which constitutes a crime within the jurisdiction of the Court or which constitutes a serious crime under the national law of the Requesting State.
- (b) (i) The assistance provided under subparagraph (a) shall include *inter alia*:
- (1) the transmission of statements, documents or other types of evidence obtained in the course of an investigation or a trial conducted by the Court; and
 - (2) the questioning of any person detained by order of the Court.
- (ii) In the case of assistance under subparagraph (b) (i) (1):
- (1) if the documents or other types of evidence have been obtained with the assistance of a State, such transmission shall require the consent of that State;
 - (2) if the statements, documents or other types of evidence have been provided by a witness or expert, such transmission shall be subject to the provisions of Article 68.
- (c) The Court may, under the conditions set out in this paragraph, grant a request for assistance under this paragraph from a State which is not a Party to the Statute (*Hon. Abdur Ningi*) — *Agreed to*.

Question that the provisions in Article 93 stand part of the Treaty, put and agreed to.

ARTICLE 94—POSTPONEMENT OF EXECUTION OF A REQUEST IN RESPECT OF ONGOING INVESTIGATION OR PROSECUTION

1. If the immediate execution of a request would interfere with an ongoing investigation or prosecution of a case different from that to which the request relates, the Requested State may postpone the execution of the request for a period of time agreed upon with the Court. However, the postponement shall be no longer than is necessary to complete the relevant investigation or prosecution in the Requested State. Before making a decision to postpone, the Requested State should consider whether the assistance may be immediately provided subject to certain conditions.
2. If a decision to postpone is taken pursuant to paragraph 1, the Prosecutor may, however, seek measures to preserve evidence, pursuant to Article 93, paragraph 1 (f) (*Hon. Abdur Ningi*) — *Agreed to*.

Question that the provisions in Article 94 stand part of the Treaty, put and agreed to.

ARTICLE 95—POSTPONEMENT OF EXECUTION OF A REQUEST IN
RESPECT OF AN ADMISSIBILITY CHALLENGE

Without prejudice to Article 53, paragraph 2, where there is an admissibility challenge under consideration by the Court pursuant to Article 18 or 19, the requested State may postpone the execution of a request under this Part pending a determination by the Court, unless the Court has specifically ordered that the Prosecutor may pursue the collection of such evidence pursuant to Articles 18 or 19 (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provision in Article 95 stand part of the Treaty, put and agreed to.

ARTICLE 96—CONTENTS OF REQUEST FOR OTHER FORMS OF ASSISTANCE UNDER ARTICLE 93

1. A request for other forms of assistance referred to in Article 93 shall be made in writing. In urgent cases, a request may be made by any medium capable of delivering a written record, provided that the request shall be confirmed through the channel provided for in Article 87, paragraph 1 (a).
2. The request shall, as applicable, contain or be supported by the following:
 - (a) a concise statement of the purpose of the request and the assistance sought, including the legal basis and the grounds for the request;
 - (b) as much detailed information as possible about the location or identification of any person or place that must be found or identified in order for the assistance sought to be provided;
 - (c) a concise statement of the essential facts underlying the request;
 - (d) the reasons for and details of any procedure or requirement to be followed;
 - (e) such information as may be required under the law of the Requested State in order to execute the request; and
 - (f) any other information relevant in order for the assistance sought to be provided.
3. Upon the request of the Court, a State Party shall consult with the Court, either generally or with respect to a specific matter, regarding any requirements under its national law that may apply under paragraph 2 (e). During the consultations, the State Party shall advise the Court of the specific requirements of its national law.
4. The provisions of this article shall, where applicable, also apply in respect of a request for assistance made to the Court (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 96 stand part of the Treaty, put and agreed to.

ARTICLE 97—CONSULTATIONS

Where a State Party receives a request under this Part in relation to which it identifies problems which may impede or prevent the execution of the request, that State shall consult with the Court without delay in order to resolve the matter. Such problems may include, *inter alia*:

- (a) insufficient information to execute the request;
- (b) in the case of a request for surrender, the fact that despite best efforts, the person sought cannot be located or that the investigation conducted has determined that the person in the custodial State is clearly not the person named in the warrant; or
- (c) the fact that execution of the request in its current form would require the requested State to breach a preexisting treaty obligation undertaken with respect to another State (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Article 97 stand part of the Treaty, put and agreed to.

ARTICLE 98—COOPERATION WITH RESPECT TO WAIVER OF IMMUNITY AND CONSENT TO SURRENDER

1. The Court may not proceed with a request for surrender or assistance which would require the Requested State to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity of a person or property of a third State, unless the Court can first obtain the cooperation of that third State for the waiver of the immunity.
2. The Court may not proceed with a request for surrender which would require the Requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 98 stand part of the Treaty, put and agreed to.

ARTICLE 99—EXECUTION OF REQUESTS UNDER ARTICLES 93 AND 96

1. Requests for assistance shall be executed in accordance with the relevant procedure under the law of the Requested State and, unless prohibited by such law, in the manner specified in the request, including following any procedure outlined therein or permitting persons specified in the request to be present at and assist in the execution process.
2. In the case of an urgent request, the documents or evidence produced in response shall, at the request of the Court, be sent urgently.
3. Replies from the Requested State shall be transmitted in their original language and form.
4. Without prejudice to other articles in this Part, where it is necessary for The successful execution of a request which can be executed without any compulsory measures, including specifically the interview of or taking evidence from a person on a voluntary basis, including doing so without the presence of the authorities of the Requested State Party if it is essential for the request to be executed, and the examination without modification of a public site or other public place, the Prosecutor may execute such request directly on the territory of a State as follows:
 - (a) when the State Party requested is a State on the territory of which the crime is alleged to have been committed, and there has been a determination of admissibility pursuant to Articles 18 or 19, the Prosecutor may directly execute such request following all possible consultations with the Requested State Party;
 - (b) in other cases, the Prosecutor may execute such request following consultations with the Requested State Party and subject to any reasonable conditions or concerns raised by that State Party. Where the Requested State Party identifies problems with the execution of a request pursuant to this subparagraph it shall, without delay, consult with the Court to resolve the matter.
5. Provisions allowing a person heard or examined by the Court under Article 72 to invoke restrictions designed to prevent disclosure of confidential information connected with national defence or security shall also apply to the execution of requests for assistance under this article (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 99 stand part of the Treaty, put and agreed to.

ARTICLE 100—COSTS

1. The ordinary costs for execution of requests in the territory of the Requested State shall be borne by that State, except for the following, which shall be borne by the Court:
 - (a) costs associated with the travel and security of witnesses and experts or the transfer under Article 93 of persons in custody
 - (b) costs of translation, interpretation and transcription;
 - (c) travel and subsistence costs of the Judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar and staff of any organ of the Court;

- (d) costs of any expert opinion or report requested by the Court;
 - (e) costs associated with the transport of a person being surrendered to the Court by a Custodial State; and
 - (f) following consultations, any extraordinary costs that may result from the execution of a request.
2. The provisions of paragraph 1 shall, as appropriate, apply to requests from States Parties to the Court. In that case, the Court shall bear the ordinary costs of execution (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 100 stand part of the Treaty, put and agreed to.

ARTICLE 101—RULE OF SPECIALITY

1. A person surrendered to the Court under this Statute shall not be proceeded against, punished or detained for any conduct committed prior to surrender, other than the conduct or course of conduct which forms the basis of the crimes for which that person has been surrendered.
2. The Court may request a waiver of the requirements of paragraph 1 from the State which surrendered the person to the Court and, if necessary, the Court shall provide additional information in accordance with Article 91. State Parties shall have the authority to provide a waiver to the Court and should endeavour to do so (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 101 stand part of the Treaty, put and agreed to.

ARTICLE 102—USE OF TERMS

For the purposes this Statute:

- (a) "surrender" means the delivering up of a person by a State to the Court, pursuant to this Statute.
- (b) "extradition" means the delivering up of a person by one State to another as provided by treaty, convention or national legislation (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 102 stand part of the Treaty, put and agreed to.

PART 10—ENFORCEMENT

ARTICLE 103—ROLE OF STATES IN ENFORCEMENT OF SENTENCES OF IMPRISONMENT

1.
 - (a) A sentence of imprisonment shall be served in a State designated by the Court from a list of States which have indicated to the Court their willingness to accept sentenced persons.
 - (b) At the time of declaring its willingness to accept sentence persons, a State may attach conditions to its acceptance as agreed by the Court and in accordance with this Part.
 - (c) A State designated in a particular case shall promptly inform the Court whether it accepts the Court's designation.
2.
 - (a) The State of enforcement shall notify the Court of any circumstances, including the exercise of any conditions agreed under paragraph 1, which could materially affect the terms of extent of the imprisonment. The Court shall be given at least 45 days notice of any such known or foreseeable circumstances. During this period, the State of enforcement shall take no action that might prejudice its obligations under Article 110.
 - (b) Where the Court cannot agree to the circumstances referred to in subparagraph (a), it shall notify the State of enforcement and proceed in accordance with Article 104, paragraph 1.
3. In exercising its discretion to make a designation under paragraph 1, the Court shall take into account the following:

- (a) the principle that States Parties should share the responsibility for enforcing sentences of imprisonment, in accordance with principles of equitable distribution, as provided in the Rules of Procedure and Evidence;
 - (b) the application of widely accepted international treaty standards governing the treatment of prisoners;
 - (c) the views of the sentenced person;
 - (d) the nationality of the sentenced person; and
 - (e) such other factors regarding the circumstances of the crime or the person sentenced, or the effective enforcement of the sentence, as may be appropriated in designating the State of enforcement.
4. If no State is designated under paragraph 1, the sentence of imprisonment shall be served in a prison facility made available by the host State, in accordance with the conditions set out in the headquarters agreement referred to in Article 3, paragraph 2. In such a case, the costs arising out of the enforcement of a sentence of imprisonment shall be borne by the Court (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 103 stand part of the Treaty, put and agreed to.

ARTICLE 104—CHANGE IN DESIGNATION OF STATE OF ENFORCEMENT

1. The Court may, at any time, decide to transfer a sentenced person to a prison of another State.
2. A sentenced person may, at anytime, apply to the Court to be transferred from the State of enforcement (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 104 stand part of the Treaty, put and agreed to.

ARTICLE 105—ENFORCEMENT OF THE SENTENCE

1. Subject to conditions which a State may have specified in accordance with Article 103, paragraph 1 (b), the sentence of imprisonment shall be binding on the States Parties, which shall in no case modify it.
2. The Court alone shall have the right to decide any application for appeal and revision. The State of enforcement shall not impede the making of any such application by a sentenced person (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 105 stand part of the Treaty, put and agreed to.

ARTICLE 106—SUPERVISION OF ENFORCEMENT OF SENTENCES AND CONDITIONS OF IMPRISONMENT

1. The enforcement of a sentence of imprisonment shall be subject to the supervision of the Court and shall be consistent with widely accepted international Treaty Standards governing treatment of prisoners.
2. The conditions of imprisonment shall be governed by the law of the State of enforcement and shall be consistent with widely accepted international treaty standards governing treatment of prisoners; in no case shall such conditions be more or less favourable than those available to prisoners convicted of similar offences in the State of enforcement.
3. Communications between a sentenced person and the Court shall be unimpeded and confidential (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 106 stand part of the Treaty, put and agreed to.

ARTICLE 107—TRANSFER OF THE PERSON UPON COMPLETION OF SENTENCE

1. Following completion of the sentence, a person who is not a national of the State of enforcement may, in accordance with the law of the State of enforcement be transferred to a State which is obliged to receive him or her, or to another State which agrees to receive him or her, taking into

account any wishes of the person to be transferred to that State, unless the State of enforcement authorizes the person to remain in its territory.

2. If no State bears the costs arising out of transferring the person to another State pursuant to paragraph 1, such costs shall be borne by the Court.
3. Subject to the provisions of article 108, the State of enforcement may also, in accordance with its national law, extradite or otherwise surrender the person to the State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 107 stand part of the Treaty, put and agreed to.

ARTICLE 108—LIMITATION ON THE PROSECUTION OR PUNISHMENT OF OTHER OFFENCES

1. A sentenced person in the custody of the State of enforcement shall not be subject to prosecution or punishment or to extradition to a third State for any conduct engaged in prior to that person's delivery to the State of enforcement, unless such prosecution, punishment or extradition has been approved by the Court at the request of the State of enforcement.
2. The Court shall decide the matter after having heard the views of the sentenced person.
3. Paragraph 1 shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of the State of enforcement after having served the full sentence imposed by the Court, or returns to the territory of that State after having left it (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 108 stand part of the Treaty, put and agreed to.

ARTICLE 109—ENFORCEMENT OF FINES AND FORFEITURE MEASURES

1. States Parties shall give effect to fines or forfeitures ordered by the Court under Part 7, without prejudice to the rights of *bona fide* third parties, and in accordance with the procedure of their national law.
2. If a State Party is unable to give effect to an order for forfeiture, it shall take measures to recover the value of the proceeds, property or assets ordered by the Court to be forfeited without prejudice to the rights of *bona fide* third parties.
3. Property or the proceeds of the sale of real property or, where appropriate, the sale other property, which is obtained by a State Party as a result of its enforcement of a judgment of the Court shall be transferred to the Court (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 109 stand part of the Treaty, put and agreed to.

ARTICLE 110—REVIEW BY THE COURT CONCERNING REDUCTION OF SENTENCE

1. The State of enforcement shall not release the person before expiry of the sentence pronounced by the Court.
2. The Court alone shall have the right to decide any reduction of sentence, and shall rule on the matter after having heard the person.
3. When the person has served two thirds of the sentence, or 25 years in the case of life imprisonment, the Court shall review the sentence to determine whether it should be reduced. Such a review shall not be conducted before that time.
4. In its review under paragraph 3, the Court may reduce the sentence if it finds that one or more of the following factors are present:
 - (a) the early and continuing willingness of the person to cooperate with the Court in its investigations and prosecutions;
 - (b) the voluntary assistance of the person in enabling the enforcement of the judgments and orders of the Court in other cases, and in particular providing assistance in locating assets

subjects to orders of fine, forfeiture or reparation which may be used for the benefit of victims; or

- (c) other factors establishing a clear and significant change of circumstances sufficient to justify the reduction of sentence, as provided in the Rules of Procedure and Evidence.

5. If the Court determines in its initial review under paragraph 3 that it is not appropriate to reduce the sentence, it shall thereafter review the question of reduction of sentence at such intervals and applying such criteria as provided for in the Rules of Procedure and Evidence (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provisions in Article 110 stand part of the Treaty, put and agreed to.

ARTICLE 111—ESCAPE

If a convicted person escapes from custody and flees the State of enforcement, that State may, after consultation with the Court, request the person's surrender from the State in which the person is located pursuant to existing bilateral or multilateral arrangements, or may request that the Court seek the person's surrender. It may direct that the person be delivered to the State in which he or she was serving the sentence or to another State designated by the Court (*Hon. Abdul Ningsi*) — *Agreed to*.

Question that the provision in Article 111 stand part of the Treaty, put and agreed to.

PART 11—ASSEMBLY OF STATES PARTIES

ARTICLE 112—ASSEMBLY OF STATES PARTIES

1. An Assembly of States Parties to this Statute is hereby established. Each State Party shall have one representative in the Assembly who may be accompanied by alternates and advisers. Other States which have signed the Statute or the Final Act may be observers in the Assembly.
2. The Assembly shall:
 - (a) consider and adopt, as appropriate, recommendations of the Preparatory Commission;
 - (b) provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court;
 - (c) consider the reports and activities of the Bureau established under paragraph 3 and take appropriate action in regard thereto;
 - (d) consider and decide the budget for the Court;
 - (e) decide whether to alter, in accordance with Article 36, the number of judges;
 - (f) consider pursuant to Article 87, paragraphs 5 and 7, any question relating to non-cooperation;
 - (g) perform any other function consistent with this Statute or the Rules of Procedure and Evidence.
3.
 - (a) Assembly shall have a Bureau consisting of a President, two Vice-Presidents and 18 members elected by the Assembly for three year terms.
 - (b) The Bureau shall have a representative character, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world.
 - (c) The Bureau shall meet as often as necessary, but at least once a year. It shall assist the Assembly in the discharge of its responsibilities.
4. The Assembly may establish such subsidiary bodies as may be necessary.
5. The President of the Court, the Prosecutor and the Registrar or their representatives may participate, as appropriate, in meetings of the Assembly and of the Bureau.

6. The Assembly shall meet at the seat of the Court or at the Headquarters of the United Nations once a year and, when circumstances so require, hold special sessions. Except as otherwise specified in this Statute, special sessions shall be convened by the Bureau on its own initiative or at the request of one-third of the States Parties.
7. Each State Party shall have one vote. Every effort shall be made to reach decisions by consensus in the Assembly and in the Bureau. If consensus cannot be reached, except as otherwise provided in the Statute:
 - (a) decisions on matters of substance must be approved by a two-thirds majority of those present and voting provided that an absolute majority of States Parties constitutes the quorum for voting;
 - (b) decisions on matters of procedure shall be taken by a simple majority of States Parties present and voting.
8. A State Party which is in arrears in the payment of its financial contributions towards the cost of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.
9. The Assembly shall adopt its own rules of procedure.
10. The official and working languages of the Assembly shall be those of the General Assembly of the United Nations (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 112 stand part of the Treaty, put and agreed to.

PART 12—FINANCING

ARTICLE 113—FINANCIAL REGULATIONS

Except as otherwise specifically provided, all financial matters related to the Court and the meetings of the Assembly of States Parties, including its Bureau and subsidiary bodies, shall be governed by this Statute and the Financial Regulations and Rules adopted by the Assembly of States Parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 113 stand part of the Treaty, put and agreed to.

ARTICLE 114—PAYMENT OF EXPENSES

Expenses of the Court and the Assembly of States Parties, including its Bureau and subsidiary bodies, shall be paid from the funds of the Court (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 114 stand part of the Treaty, put and agreed to.

ARTICLE 115—FUNDS OF THE COURT AND OF THE ASSEMBLY OF STATES PARTIES

The expenses of the Court and the Assembly of States Parties, including its Bureau and subsidiary bodies, as provided for in the budget decided by the Assembly of States Parties, shall be provided by the following sources:

- (a) assessed contributions made by States Parties;
- (b) funds provided by the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 115 stand part of the Treaty, put and agreed to.

ARTICLE 116—VOLUNTARY CONTRIBUTIONS

Without prejudice to Article 115, the Court may receive and utilize, as additional funds, voluntary contributions from Governments, International Organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 116 stand part of the Treaty, put and agreed to.

ARTICLE 117—ASSESSMENT OF CONTRIBUTIONS

The contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale is based (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 117 stand part of the Treaty, put and agreed to.

ARTICLE 118—ANNUAL AUDIT

The records, books and accounts of the Court, including its annual financial statements, shall be audited annually by an independent auditor (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 118 stand part of the Treaty, put and agreed to.

PART 13—FINAL CLAUSES

ARTICLE 119—SETTLEMENT OF DISPUTES

1. Any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court.
2. Any other dispute between two or more States Parties relating to the interpretation or application of this Statute which is not settled through negotiations within three months of their commencement shall be referred to the Assembly of States Parties. The Assembly may itself seek to settle the dispute or make recommendations on further means of settlement of the dispute, including referral to the International Court of Justice in conformity with the Statute of that Court (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 119 stand part of the Treaty, put and agreed to.

ARTICLE 120—RESERVATIONS

No reservations may be made to this Statute (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 120 stand part of the Treaty, put and agreed to.

ARTICLE 121—AMENDMENTS

1. After the expiry of seven years from the entry into force of this Statute, and State Party may propose amendments thereto. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations, who shall promptly circulate it to all States Parties.
2. No sooner than three months from the date of notification, the next Assembly of States Parties shall, by a majority of those present and voting, decide whether to take up the proposal. The Assembly may deal with the proposal directly or convene a Review Conference if the issue involved so warrants.
3. The adoption of an amendment at a meeting of the Assembly of States Parties or at a Review Conference on which consensus cannot be reached shall require a two-thirds majority of States Parties.
4. Except as provided in paragraph 5, an amendment shall enter into force for all State's Parties one year after instruments of ratification or acceptance have been deposited with the Secretary-General of the United Nations by seven-eighths of them.

5. Any amendment to Article 5 of this Statute shall enter into force for those States Parties which have accepted the amendment one year after the deposit of their instruments of ratification or acceptance. In respect of a State Party which has not accepted the amendment, the Court shall not exercise its jurisdiction regarding a crime covered by the amendment when committed by that State Party's nationals or on its territory.
6. If an amendment has been accepted by seven-eighths of States Parties in accordance with paragraph 4, any State Party which has not accepted the amendment may withdraw from the Statute with immediate effect, notwithstanding paragraph 1 of Article 127, but subject to paragraph 2 of Article 127, by giving notice not later than one year after the entry into force of such amendment.
7. The Secretary-General of the United Nations shall circulate to all States Parties any amendment adopted at a meeting of the Assembly of States Parties or at a Review Conference (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 121 stand part of the Treaty, put and agreed to.

ARTICLE 122—AMENDMENTS TO PROVISIONS OF AN INSTITUTIONAL NATURE

1. Amendments to provisions of the Statute which are of an exclusively institutional nature, namely, Article 35, Article 36, Paragraphs 8 and 9, Article 37, Article 38, Article 39, paragraphs 1 (first two sentences), 2 and 4, Article 42, paragraphs 4 to 9, Article 43, paragraphs 2 and 3, and Articles 44, 46, 47 and 49, may be proposed at any time, notwithstanding Article 121, paragraph 1, by any State Party. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations or such other person designated by the Assembly of States Parties who shall promptly circulate it to all States Parties and to others participating in the Assembly.
2. Amendments under this article on which consensus cannot be reached shall be adopted by the Assembly of States Parties or by a Review Conference, by a two-thirds majority of States Parties. Such amendments shall enter into force for all States Parties six months after their adoption by the Assembly or, as the case may be, by the Conference (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 122 stand part of the Treaty, put and agreed to.

ARTICLE 123—REVIEW OF THE STATUTE

1. Seven years after the entry into force of this Statute the Secretary-General of the United Nations shall convene a Review Conference to consider any amendments to this Statute. Such review may include but is not limited to the list of crimes contained in Article 5. The Conference shall be open to those participating in the Assembly of States Parties and on the same conditions.
2. At any time thereafter, at the request of a State Party and for the purposes set out in paragraph 1, the Secretary-General of the United Nations shall, upon approval by a majority of States Parties, convene a Review Conference.
3. The provisions of Article 121, paragraphs 3 to 7 shall apply to the adoption and entry into force of any amendment to the Statute considered at a Review Conference (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 123 stand part of the Treaty, put and agreed to.

ARTICLE 124—TRANSITIONAL PROVISION

Notwithstanding Article 12, paragraph 1, a State, on becoming a Party to this Statute, may declare that for a period of seven years after the entry into force of this Statute for the State concerned, it does not accept the jurisdiction of the Court with respect to the category of crimes referred to in Article 8 when a crime is alleged to have been committed by its nationals or on its territory. A declaration under this article may be withdrawn at any time. The provisions of this article shall be reviewed at the Review Conference convened in accordance with Article 123, paragraph 1 (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 124 stand part of the Treaty, put and agreed to.

ARTICLE 125—SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. This Statute shall be open for signature by all States in Rome, at the headquarters of the Food and Agriculture Organization of the United Nations, on 17th July, 1998. Thereafter, it shall remain open

for signature in Rome at the Ministry of Foreign Affairs of Italy until 17th October, 1998. After that date, the Statute shall remain open for signature in New York, at United Nations headquarters, until 31 December, 2000.

2. This Statute is subject to ratification, acceptance or approval by signatory States. Instruments of Ratification, Acceptance or Approval shall be deposited with the Secretary-General of the United Nations.
3. This Statute shall be open to accession by all States. Instruments of Accession shall be deposited with the Secretary-General of the United Nations (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 125 stand part of the Treaty, put and agreed to.

ARTICLE 126—ENTRY INTO FORCE

1. This Statute shall enter into force on the first day of the month after the 60th day following the date of the deposit of the 60th Instrument of Ratification, Acceptance, Approval or Accession with the Secretary-General of the United Nations.
2. For each State ratifying, accepting, approving or acceding to the Statute after the deposit of the 60th Instrument of Ratification, Acceptance, Approval or Accession, the Statute shall enter into force on the first day of the month after the 60th day following the deposit by such State of its instrument of ratification, acceptance, approval or accession (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 126 stand part of the Treaty, put and agreed to.

ARTICLE 127—WITHDRAWAL

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.
2. A State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Statute while it was a Party to the Statute, including any financial obligations which may have accrued. Its withdrawal shall not affect any cooperation with the Court in connection with criminal investigations and proceedings in relation to which the withdrawing State had a duty to cooperate and which were commenced prior to the date on which the withdrawal became effective, nor shall it prejudice in any way the continued consideration of any matter which was already under consideration by the Court prior to the date on which the withdrawal became effective (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 127 stand part of the Treaty, put and agreed to.

ARTICLE 128—AUTHENTIC TEXTS

The original of this Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Statute.

DONE at Rome, this 17th day of July, 1998 (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 128 stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole consider the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Rome States of the International Criminal Court and for Purposes Connected Therewith, 2003 and approved the Preamble to the Enactment, Clauses 1 and 2 and Articles 1 - 128 of the Treaty.

Question that the House adopt the Report of the Committee of Whole, put and agreed to.

10. **A Bill for an Act to Ratify and Enforce the Treaty on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, 2003 (Committee of Whole):**

Motion made and Question proposed: That the Bill for an Act to Ratify and Enforce the Treaty on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, 2003 be now read the Second Time (Hon. Abdul Ningi).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty, agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO RATIFY AND ENFORCE THE TREATY ON THE PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANISED CRIME, 2003 (HB. 10)

WHEREAS a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime was adopted by Member States of the United Nations; (Hon. Abdul Ningi) — Agreed to.

AND WHEREAS the Government of the Federal Republic of Nigeria has in accordance with her Constitutional Process ratified the said Protocol; (Hon. Abdul Ningi) — Agreed to.

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime in the Federal Republic of Nigeria; (Hon. Abdul Ningi) — Agreed to.

Question that the Preamble be the Preamble to the Bill, put and agreed to.

NOW THEREFORE BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows—

Clause 1: **Enforcement of the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children.**

The provisions of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Supplementing the United Nations Convention against Transnational Organised Crime which are set out in the Schedule to this Act, shall, subject as thereunder provided be given full recognition and effect in Nigeria and be applied by all authorities and persons exercising Legislative, Executive or Judicial Powers in Nigeria (Hon. Abdul Ningi) — Agreed to.

Question that Clause 1 stand part of the Bill, put and agreed.

Clause 2: **Short Title.**

This Act may be cited as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime (Enactment) Act, 2003 (Hon. Abdul Ningi) — Agreed to.

Question that Clause 2 stand part of the Bill, put and agreed.

PREAMBLE

THE STATES PARTIES TO THIS PROTOCOL

DECLARING that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognised human rights;

TAKING into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons;

CONCERNED that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected;

RECALLING General Assembly Resolution 53/111 of 9 December, 1998 in which the Assembly decided to establish an open-ended intergovernmental *Ad-hoc* committee for the purpose of elaborating a comprehensive international convention against transnational organised crime and of discussing the elaboration of, *inter alia*, an international instrument addressing trafficking in women and children;

CONVINCED that supplementing the United Nations Convention against Transnational Organised Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combatting that crime; (*Hon. Abdul Ningi*) — *Agreed to*.

Question that this Schedule be the Schedule to the Treaty, put and agreed to.

HAVE AGREED as follows:

1—GENERAL PROVISIONS

ARTICLE 1—RELATION WITH THE UNITED NATIONS CONVENTION AGAINST
TRANSNATIONAL ORGANISED CRIME

1. This Protocol supplements the United Nations Convention against Transnational Organised Crime. It shall be interpreted together with the Convention.
2. The provision of the Convention shall apply, *mutatis mutandis* to this Protocol unless otherwise provided herein.
3. The offences established in accordance with Article 5 of this Protocol shall be regarded as offences established in accordance with the Convention (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 1 stand part of the Treaty, put and agreed to.

ARTICLE 2—STATEMENT OF PURPOSE

The purposes of this Protocol are—

- (a) to prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) to protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) to promote cooperation among States Parties in order to meet those objectives (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 2 stand part of the Treaty, put and agreed to.

ARTICLE 3—USE OF TERMS

For the purposes of this Protocol—

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud,

of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- (b) the consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "child" shall mean any person under eighteen years of age (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 3 stand part of the Treaty, put and agreed to.

ARTICLE 4—SCOPE OF APPLICATION

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with Article 5 of this Protocol, where those offences are transnational in nature and involve an organised criminal group, as well as to the protection of victims of such offences (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 4 stand part of the Treaty, put and agreed to.

ARTICLE 5—CRIMINALISATION

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in Article 3 of this Protocol, when committed intentionally.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
 - (a) subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
 - (b) participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
 - (c) organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 5 stand part of the Treaty, put and agreed to.

II—PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS

ARTICLE 6—ASSISTANCE TO AND PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, *inter alia*, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases—
 - (a) information on relevant court and administrative proceedings;
 - (b) assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organisations, other relevant organisations and other elements of Civil Society, and, in particular, the provision of—
 - (a) appropriate housing;
 - (b) counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) medical, psychological and material assistance; and
 - (d) employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 6 stand part of the Treaty, put and agreed to.

ARTICLE 7—STATUS OF VICTIMS OF TRAFFICKING IN PERSONS IN RECEIVING STATES

1. In addition to taking measures pursuant to Article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provisions contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 7 stand part of the Treaty, put and agreed to.

ARTICLE 8—REPARATION OF VICTIMS OF TRAFFICKING IN PERSONS

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a Receiving State Party, a Requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the Receiving State Party shall agree to issue, at the request of the Receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and reenter its territory.
5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the Receiving State Party.

6. This article shall be without prejudice to any applicable bilateral and multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 8 stand part of the Treaty, put and agreed to.

III—PREVENTION, COOPERATION AND OTHER MEASURES

ARTICLE 9—PREVENTION OF TRAFFICKING IN PERSONS

1. States Parties shall establish comprehensive policies, programmes and other measures:
 - (a) to prevent and combat trafficking in persons; and
 - (b) to protect victims of trafficking in persons, especially women and children, from re-victimization.
2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organisations, other relevant organisations and other elements of Civil Society.
4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.
5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 9 stand part of the Treaty, put and agreed to.

ARTICLE 10—INFORMATION EXCHANGE AND TRAINING

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:
 - (a) whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
 - (b) the types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
 - (c) the means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking and possible measures for detecting them.
2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child and gender sensitive issues and it should encourage cooperation with nongovernmental organisations, other relevant organisations and other elements of Civil Society.
3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 10 stand part of the Treaty, put and agreed to.

ARTICLE 11—BORDER MEASURES

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with Article 5 of this Protocol.
3. Where appropriate, and without prejudice to applicable International Conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.
6. Without prejudice to Article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 11 stand part of the Treaty, put and agreed to.

ARTICLE 12—SECURITY AND CONTROL OF DOCUMENTS

Each State Party shall take such measures as may be necessary, within available means:

- (a) to ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) to ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawfully creation, issuance and use (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 12 stand part of the Treaty, put and agreed to.

ARTICLE 13—LEGITIMACY AND VALIDITY OF DOCUMENTS

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 13 stand part of the Treaty, put and agreed to.

IV—FINAL PROVISIONS

ARTICLE 14—SAVING CLAUSE

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognised principles of nondiscrimination (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 14 stand part of the Treaty, put and agreed to.

ARTICLE 15—SETTLEMENT OF DISPUTES

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organisation of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 15 stand part of the Treaty, put and agreed to.

ARTICLE 16—SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. This Protocol shall be open to all States for signature from 12th to 15th December, 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12th December, 2000.
2. This Protocol shall also be open for signature by regional economic integration organisations provided that at least one member State of such organisation has signed this Protocol in accordance with paragraph 1 of this article.
3. This Protocol is subject to ratification, acceptance or approval. Instrument of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organisation may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organisation shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organisation shall also inform the depositary of any relevant modification in the extent of its competence.
4. This Protocol is open for accession by any State or any regional economic integration organisation of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organisation shall declare the extent of its competence with respect to matters governed by this Protocol. Such organisation shall also inform the depositary of any relevant modification in the extent of its competence (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 16 stand part of the Treaty, put and agreed to.

ARTICLE 17—ENTRY INTO FORCE

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by member States of such organisation.
2. For each State or regional economic integration organisation ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organisation of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 17 stand part of the Treaty, put and agreed to.

ARTICLE 18—AMENDMENT

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.
2. Regional economic integration organisations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organisations shall not exercise their right to vote if their member States exercise theirs and *vice versa*.
3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 18 stand part of the Treaty, put and agreed to.

ARTICLE 19—DENUNCIATION

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organisation shall cease to be a Party to this Protocol when all of its member States have denounced it (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 19 stand part of the Treaty, put and agreed to.

ARTICLE 20—DEPOSITARY AND LANGUAGES

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic shall be deposited with the Secretary-General of the United Nations (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 20 stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole consider the Bill for an Act to Ratify and Enforce the Treaty on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime, 2003 and approved the Preamble to the Enactment, Clauses 1 and 2 and Articles 1 - 20 of the Treaty.

Question that the House adopt the Report of the Committee of Whole, put and agreed to.

11. **A Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and for Purposes Connected Therewith, 2003 (Committee of Whole):**

Motion made and Question proposed, That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and for Purposes Connected Therewith, 2003 be now read the Second Time (Hon. Abdul Ningi).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty, agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE UNITED NATIONS CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND FOR PURPOSES CONNECTED THEREWITH, 2003 (HB. 11)

WHEREAS the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the Member States of the United Nations by the General Resolution 39/46 of 10th December, 1984; (Hon. Abdul Ningi) — *Agreed to.*

AND WHEREAS the Government of the Federal Republic of Nigeria has by a decision duly reached in accordance with her constitutional process ratified the said Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the Federal Republic of Nigeria; (Hon. Abdul Ningi) — *Agreed to.*

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the Federal Republic of Nigeria; (Hon. Abdul Ningi) — *Agreed to.*

Question that the Preamble be the Preamble to the Bill, put and agreed to.

NOW THEREFORE BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows—

Clause 1: Enforcement of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:

As from the commencement of this Act, the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which are set in the Schedule to this Act, shall subject as thereunder provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria (Hon. Abdul Ningi) — *Agreed to.*

Question that Clause 1 stand part of the Bill, put and agreed.

Clause 2: Short Title:

This Act may be cited as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Ratification and Enforcement) Act, 2003 (Hon. Abdul Ningi) — *Agreed to.*

Question that Clause 2 stand part of the Bill, put and agreed.

SCHEDULE

CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT: ADOPTED AND OPENED FOR SIGNATURE, RATIFICATION AND ACCESSION
BY GENERAL ASSEMBLY RESOLUTION 39/46 OF 10TH DECEMBER, 1984

ENTRY INTO FORCE 26TH JUNE, 1987, IN ACCORDANCE WITH ARTICLE 27 (1)

STATUS OF RATIFICATION

The States Parties to this Convention:

CONSIDERING that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of Freedom, Justice and Peace in the World;

RECOGNISING that those rights derive from the inherent dignity of the human person, considering the obligation of States under the Chapter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms;

HAVING regard to Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Convention on Civil and Political Rights, both of which provide that no one shall be subjected to Torture or to Cruel, Inhuman or Degrading Treatment or Punishment;

HAVING regard also to the declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9th December, 1975;

DESIRING to make more effective struggle against Torture and Other Cruel, Inhuman or Degrading Treatment or punishment throughout the world; (*Hon. Abdul Ningi*) — *Agreed to.*

Question that this Schedule be the Schedule to the Treaty, put and agreed to.

HAVING agreed as follows:

PART I — ARTICLE 1

- (1) For the purposes of this Convention, the term "Torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
- (2) This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 1 stand part of the Treaty, put and agreed to.

ARTICLE 2

- (1) Each State Party shall take effective legislative, Administrative, Judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
- (2) No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
- (3) An order from a superior or a public authority may not be invoked as a justification of torture (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 2 stand part of the Treaty, put and agreed to.

ARTICLE 3

- (1) No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
- (2) For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, fragrant or mass violations of human rights (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 3 stand part of the Treaty, put and agreed to.

ARTICLE 4

- (1) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
- (2) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 4 stand part of the Treaty, put and agreed to.

ARTICLE 5

- (1) Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 4 in the following cases:
 - (a) when the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
 - (b) when the alleged offender is a national of that State;
 - (c) when the victim is a national of that State if that State considers it appropriate.
- (2) Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this article.
- (3) This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 5 stand part of the Treaty, put and agreed to.

ARTICLE 6

- (1) Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in Article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
- (2) Such State shall immediately make a preliminary inquiry into the facts.
- (3) Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or if he is a stateless person, with the representative of the State where he usually resides.
- (4) When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in Article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 6 stand part of the Treaty, put and agreed to.

ARTICLE 7

- (1) The State party in the territory under whose jurisdiction a person alleged to have committed any offence to in Article 4 is found shall in the cases contemplated in Article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
- (2) These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in Article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in Article 5, paragraph 1.
- (3) Any person regarding whom proceedings are brought in connection with any of the offences referred to in Article 4 shall be guaranteed fair treatment at all stages of the proceedings (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 7 stand part of the Treaty, put and agreed to.

ARTICLE 8

- (1) The offences referred to in Article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be included between them.
- (2) If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
- (3) State Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
- (4) Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1 (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 8 stand part of the Treaty, put and agreed to.

ARTICLE 9

- (1) States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in Article 4, including the supply of all evidence at their disposal necessary for the proceedings.
- (2) States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 9 stand part of the Treaty, put and agreed to.

ARTICLE 10

- (1) Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
- (2) Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 10 stand part of the Treaty, put and agreed to.

ARTICLE 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 11 stand part of the Treaty, put and agreed to.

ARTICLE 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 12 stand part of the Treaty, put and agreed to.

ARTICLE 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 13 stand part of the Treaty, put and agreed to.

ARTICLE 14

- (1) Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
- (2) Nothing in this article shall affect an right of the victim or other persons to compensation which may exist under national law (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 14 stand part of the Treaty, put and agreed to.

ARTICLE 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 15 stand part of the Treaty, put and agreed to.

ARTICLE 16

- (1) Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in Articles 10, 11, 12 and 13 shall apply with the substitution for references to torture to other forms of cruel, inhuman or degrading treatment or punishment.
- (2) The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 16 stand part of the Treaty, put and agreed to.

PART II — ARTICLE 17

There shall be established a committee against torture (hereinafter to as the committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized, competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 17 stand part of the Treaty, put and agreed to.

ARTICLE 18

- (1) The committee shall elect its officers for a term of two years. They may be re-elected.
- (2) The Committee shall establish its Own rules of procedures, but these rules shall provide, *inter alia*, that:
 - (a) six members shall constitute a quorum;
 - (b) decisions of the Committee shall be made by a majority vote of the members, present.
- (3) The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
- (4) The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
- (5) The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 18 stand part of the Treaty, put and agreed to.

ARTICLE 19

- (1) The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the committee may request.
- (2) The Secretary-General of the United Nations shall transmit the reports to all States Parties.
- (3) Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
- (4) The committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with Article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 19 stand part of the Treaty, put and agreed to.

ARTICLE 20

- (1) If the Committee receives reliable information which appears to it contain well-founded indications the torture is being systematically practised in the territory of a State Party, the committee shall invite that state party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.

- (2) Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
- (3) If an inquiry is made in accordance with paragraph 2 of this article, the committee shall seek the co-operation of the State Party concerned. In agreement with that State's Party, such an inquiry may include a visit to its territory.
- (4) After examining the findings of its members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
- (5) All the proceedings of the Committee referred to in paragraph 1 to 4 of this article shall be confidential, and at all, states of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with Article 24 (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 20 stand part of the Treaty, put and agreed to.

ARTICLE 21

- (1) A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communication consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal, experience.
- (2) The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also Members of the Human Rights Committee established under the International Convention on Civil and Political Rights and who are willing to serve on the Committee against Torture.
- (3) Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected, to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
- (4) The initial election shall be held not later than six months after the date of the entry into force of this convention, At least four months before the date of each election, the Secretary-General of this, United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
- (5) The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if re-nominated. However, the term of five of the members elected at the first election shall expire at the end of two years ; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.
- (6) If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

in accordance with the provisions of this article shall be dealt with

- (a) if a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving state shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- (b) if the matter is not adjusted with to the satisfaction of both States Parties concerned within six months after the receipt by the State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Committee and to the other State;
- (c) the Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;
- (d) the Committee shall hold closed meetings when examining communications under this article;
- (e) subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up *Ad hoc* Conciliation Commission;
- (f) in any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- (g) the States Parties concerned, referred to in sub-paragraph (b) shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and or in writing;
- (h) the Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:
 - (i) if a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of facts and of the solution reached;
 - (ii) if a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submission and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.
- (8) The provisions of this article shall come into force when five States Parties to this Convention have made declaration under paragraph 1 of this article. Such declaration shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article, no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 21 stand part of the Treaty, put and agreed to.

ARTICLE 22

- (1) A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communication from or on behalf of individual

subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has made such a declaration.

- (2) The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.
- (3) Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
- (4) The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
- (5) The Committee shall not consider any communications from an individual under this article unless it has ascertained that:
 - (a) the same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
 - (b) the individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
- (6) The Committee shall hold closed meetings when examining communications under this article.
- (7) The Committee shall forward its view to the State Party concerned and to the individual.
- (8) The provisions of this article shall come into force when five States Parties to this Convention have made declaration under paragraph 1 of this article. Such declaration shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article, no further communication by or on behalf of an individual shall be received under this article after, the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 22 stand part of the Treaty, put and agreed to.

ARTICLE 23

The members of the Committee and of the *Ad-hoc* Conciliation Commissions which may be appointed under Article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 23 stand part of the Treaty, put and agreed to.

ARTICLE 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 24 stand part of the Treaty, put and agreed to.

ARTICLE 25

- (1) This Convention is open for signature by all States.
- (2) This Convention is subject to ratification. Instrument of ratification shall be deposited with the Secretary-General of the United Nations (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 25 stand part of the Treaty, put and agreed to.

ARTICLE 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provision in Article 26 stand part of the Treaty, put and agreed to.

ARTICLE 27

- (1) This Convention shall enter into force on the Thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the Twentieth Instrument of Ratification or Accession.
- (2) For each State Party ratifying this Convention or acceding to it after the deposit of the Twentieth Instrument of Ratification or Accession. The Convention shall enter into force on the thirtieth day after the date of the deposit of its own Instrument of Ratification or Accession (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 27 stand part of the Treaty, put and agreed to.

ARTICLE 28

- (1) Each State Party may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognise the competence of the Committee provided for in Article 20.
- (2) Any State Party having made reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Article 28 stand part of the Treaty, put and agreed to.

ARTICLE 29

Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one-third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provision in Article 29 stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole consider the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and for Purposes Connected Therewith, 2003 and approved the Preamble to the Enactment, Clauses 1 and 2 and Articles 1 - 29 of the Treaty.

Question that the House adopt the Report of the Committee of Whole, put and agreed to.

14. **A Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 2003 (Committee of Whole):**
Motion made and Question proposed, That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 2003 be now read the Second Time" (Hon. Abdul Ningi).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty, agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE (HB. 18)

WHEREAS the Convention on the Prior Informed Consent Procedure for Certain Chemicals and Pesticides in International Trade was adopted by the Member States of the United Nations 10th September, 1998; (*Hon. Abdul Ningi*) — *Agreed to.*

AND WHEREAS the Government of the Federal Republic of Nigeria has by a decision duly reached in accordance with her constitutional process ratified the said Rotterdam Convention; (*Hon. Abdul Ningi*) — *Agreed to.*

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade in the Federal Republic of Nigeria; (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the Preamble be the Preamble to the Bill, put and agreed to.

NOW THEREFORE BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows—

Clause 1: Enforcement of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade:

As from the commencement of this Act, the provisions of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade which are set out in the schedule to this, shall subject as thereunder provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria (*Hon. Abdul Ningi*) — *Agreed to.*

Question that Clause 1 stand part of the Bill, put and agreed.

Clause 2: Short Title:

This Act may be cited as the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Ratification and Enforcement) Act, 2003 (*Hon. Abdul Ningi*) — *Agreed to.*

Question that Clause 2 stand part of the Bill, put and agreed.

SCHEDULE

THE STATES PARTIES TO THIS CONVENTION

AWARE of the harmful impact on human health and the Environment from Certain Hazardous Chemicals and Pesticides in International Trade.

RECALLING the pertinent provisions of the Rotterdam Declaration on Environment at Development and Chapter 19 of Agenda 21 on "Environmentally Sound Management of Toxic Chemicals, including Prevention of Illegal International Traffic in Toxic and Dangerous Products";

MINDFUL of the work undertaken by the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization of the United Nations (FAO) in the operation of the voluntary Prior Informed Consent Procedure, as set out in the UNEP Amended London Guidelines for the Exchange of Information on Chemical in International Trade (hereinafter referred to as the "Amended London Guidelines" and the

FAO International Code of Conduct on the Distribution and Use of Pesticides (hereinafter referred to as the "International Code of Conduct");

TAKING into account the circumstances and particular requirements of developing countries and countries with economies in transition, in particular the need to strengthen national capabilities and capacities for the management of chemicals, including transfer of technology, providing financial and technical assistance and promoting cooperation among the parties;

NOTING the specific needs of some countries for information on transit movements.

RECOGNISING that good management practices for chemicals should be promoted in all countries, taking into account, *inter alia*, the voluntary standards laid down in the International Code of Conduct and the UNEP Code of Ethics on the International Trade in Chemicals;

DESIRING to ensure that hazardous chemicals that are exported from their territory are packaged and labelled in a manner that is adequately protective of human health and the environment, consistent with the principles of the Amended London Guidelines and the International Code of Conduct;

RECOGNIZING that trade and environmental policies should be mutually supportive with a view to achieving sustainable development;

EMPHASIZING that nothing in this Convention shall be interpreted as implying in any way a change in the rights and obligations of a Party under any existing international agreement applying to chemicals in international trade or to environmental protection;

UNDERTAKING that the above recital is not intended to create a hierarchy between this Convention and other international agreements;

DETERMINED to protect human health, including the health of consumers and workers, and the environment against potentially impacts from Certain Hazardous Chemicals and Pesticides in International Trade;; (*Hon. Abdul Ningi*) — *Agreed to*.

Question that this Schedule be the Schedule to the Treaty, put and agreed to.

HAVING agreed as follows:

ARTICLE 1—OBJECTIVE

The objective of this Convention is to Promote shared responsibility and co-operative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision making process on their import and export and by disseminating these decisions to Parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 1 stand part of the Treaty, put and agreed to.

ARTICLE 2—DEFINITION

For the purpose of this Convention:

- (a) "chemical" means a substance whether by itself or in a mixture or preparation and whether manufactured or obtained from nature, but does not include any living organism. It consists of the following categories pesticide (including severely hazardous pesticide formulations) and industrial;
- (b) "banned chemical" means a chemical all uses of which within one or more categories have been prohibited by final regulatory action, in order to protect human health or the environment. It includes a chemical that has been refused approval for first-time use or has been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process and where there is clear evidence that such action has been taken in order to protect human health or the environment;
- (c) "severely restricted chemical" means a chemical virtually all use of which within one or more categories has been prohibited by final regulatory action in order to protect human health or the environment, but for which certain specific uses remain allowed. It includes a chemical that has, for

virtually all use, been refused for approval or been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment;

- (d) "severely hazardous pesticide formulation" means a chemical formulated for pesticidal use that produces severe health or environmental effects observable within a short period of time after single or multiple exposure, under conditions of use;
- (e) "final regulatory action" means an action taken by a Party, that does not require subsequent regulatory action by that Party, the purpose of which is to ban or severely restrict a chemical;
- (f) "export" and "import" mean, in their respective connotations, the movement of a chemical from one Party to another Party, but exclude mere transit operations;
- (g) "Party" means a State or regional economic integration Organisation that has consented to be bound by this Convention and for which the Convention is in force;
- (h) "Regional Economic Integration Organisation" means an Organisation constituted by Sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;
- (i) "Chemical Review Committee" means the subsidiary body referred to in paragraph 6 of Article 18 (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 2 stand part of the Treaty, put and agreed to.

ARTICLE 3—SCOPE OF THE CONVENTION

- (1) This Convention applies to:
 - (a) banned or severely restricted chemicals; and
 - (b) severely hazardous pesticide formulations.
- (2) This Convention does not apply to:
 - (a) narcotic drugs and psycho-tropic substance;
 - (b) radioactive materials;
 - (c) wastes;
 - (d) chemicals weapons;
 - (e) pharmaceuticals, including human and veterinary drugs;
 - (f) chemicals used as food additives;
 - (g) food;
 - (h) chemicals in quantities not likely to affect human health or the environment provided they are imported:
 - (i) for the purpose of research or analysis; or
 - (ii) by an individual for his or her own personal use in quantities reasonable for such use (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Article 3 stand part of the Treaty, put and agreed to.

ARTICLE 4—DESIGNATED NATIONAL AUTHORITIES

- (1) Each Party shall designate one or more national authorities that shall be authorised to act on its behalf in the performance of the administrative functions required by this Convention.

- (2) Each Party shall seek to ensure that such authority or authorities have sufficient resources to perform their tasks effectively.
- (3) Each Party shall, not later than the date of the entry into force of this Convention for it, notify the name and address of such authority or authorities to the Secretariat. It shall forthwith notify the Secretariat of any changes in the name and address of such authority or authorities.
- (4) The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 3 (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 4 stand part of the Treaty, put and agreed to.

ARTICLE 5—PROCEDURE FOR BANNED OR SEVERELY RESTRICTED CHEMICALS

- (1) Each Party that has adopted a final regulatory action shall notify the Secretariat in writing of such action. Such notification shall be made as soon as possible, and in any event not later than ninety days after the date on which the final regulatory action has taken effect, and shall contain the information required by Annex I, where available.
- (2) Each Party shall, at the date of entry into force of this Convention for it, notify the Secretariat in writing of its final regulatory actions in effect at that time, except that each Party that has submitted notification of final regulatory actions under the Amended London Guidelines or the International Code of Conduct need not resubmit those notifications.
- (3) The Secretariat shall, as soon as possible, and in any event not later than six months after receipt of a notification under paragraphs 1 and 2, verify whether the notification contains the information required by Annex I. If the notification contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the notification does not contain the information required, it shall inform the notifying Party accordingly.
- (4) The Secretariat shall every six months communicate to the Parties a synopsis of the information received pursuant to paragraphs 1 and 2, including information regarding those notifications which do not contain all the information required by Annex I.
- (5) When the Secretariat has received at least one notification from each of two Prior Informed Consent regions regarding a particular chemical that it has verified meet the requirements of Annex I, it shall forward them to the Chemical Review Committee. The composition of the Prior Informed Consent regions shall be defined in a decision to be adopted by consensus at the first meeting of the Conference of the Parties.
- (6) The Chemical Review Committee shall review the information provided in such notifications and, in accordance with the criteria set out in Annex II, recommend to the Conference of the Parties whether the chemical in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 5 stand part of the Treaty, put and agreed to.

ARTICLE 6—PROCEDURES FOR SEVERELY HAZARDOUS PESTICIDES FORMULATIONS

- (1) Any Party that is a developing country or a country with an economy in transition and that is experiencing problems caused by a severely hazardous pesticide formulation under condition of use in its territory, may propose to the Secretariat the listing of the severely hazardous pesticide formulation in Annex III. In developing a proposal, the party may draw upon technical expertise from any relevant source. The proposal shall contain the information required by Part 1 of Annex IV.
- (2) The Secretariat shall, as soon as possible, and in any event not later than six months after receipt of a proposal under paragraph 1, verify whether the proposal contains the information required by Part 1 of Annex IV. If the proposal contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the proposal does not contain the information required, it shall inform the proposing Party accordingly.
- (3) The Secretariat shall collect the additional information set out in Part 2 of Annex IV regarding the proposal forwarded under paragraph 2.

- (4) When the requirements of paragraphs 2 and 3 above have been fulfilled with regard to a particular severely hazardous pesticide formulation, the Secretariat shall forward the proposal and the related information to the Chemical Review Committee.
- (5) The Chemical Review Committee shall review the information provided in the proposal and the additional information collected and, in accordance with the criteria set out in Part 3 of Annex IV, recommend to the Conference of the Parties whether the severely hazardous pesticide formulation in question should be made subject to the prior Informed Consent procedure and, accordingly, be listed in Annex III (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 6 stand part of the Treaty, put and agreed to.

ARTICLE 7—LISTING OF CHEMICALS IN ANNEX III

- (1) For each Chemical that the chemical Review Committee has decided to recommend for listing in Annex III, it shall prepare a draft decision guidance document. The decision guidance document should, at a minimum, be based on the information specified in Annex I, or, as the case may be, Annex IV, and include information on uses of the Chemical in a category other than the category for which the final regulatory action applies.
- (2) The recommendation referred to in paragraph 1 together with the draft decision guidance document shall be forwarded to the Conference of the Parties. The Conference of the Parties shall decide whether the chemical should be made subject to the Prior Informed Consent procedure and, accordingly, list the chemical in Annex III and approve the draft decision guidance document.
- (3) When a decision to list a chemical in Annex III has been taken and the related decision guidance document has been approved by the Conference of the Parties, the Secretariat shall forthwith communicate this information to all parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 7 stand part of the Treaty, put and agreed to.

ARTICLE 8—CHEMICALS IN THE VOLUNTARY PRIOR INFORMED CONSENT PROCEDURES

For any chemical, other than a chemical listed in Annex III, that has been included in the voluntary Prior Informed Consent procedure before the date of the first meeting of the Conference of the Parties, the Conference of the Parties shall decide at that meeting to list the chemical in Annex III, provided that it is satisfied that all the requirements for taking in that Annex have been fulfilled (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 8 stand part of the Treaty, put and agreed to.

ARTICLE 9—REMOVAL OF CHEMICALS FROM ANNEX III

- (1) If a Party submits to the secretariat Information that was not available at the time of the decision to list a chemical in Annex III and that information indicates that its listing may no longer be justified in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, the Secretariat shall forward the information to the Chemical Review Committee.
- (2) The Chemical Review Committee shall review the information it receives under paragraph 1. For each chemical that the Chemical Review Committee decides, in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, to recommend for removal from Annex III, it shall prepare a revised draft decision guidance document.
- (3) A recommendation referred to in paragraph 2 shall be forwarded to the Conference of the Parties and be accompanied by a revised draft decision guidance document. The Conference of the Parties shall decide whether the chemical should be removed from Annex III and whether to approve the revised draft decision guidance document.
- (4) When a decision to remove a chemical from Annex III has been taken and the revised decision guidance document has been approved by the Conference of the parties, the Secretariat shall forthwith communicate this information to all parties (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 9 stand part of the Treaty, put and agreed to.

ARTICLE 10—OBLIGATIONS IN RELATION TO IMPORTS OF CHEMICALS LISTED IN ANNEX III

- (1) Each Party shall implement appropriate legislative or administrative measures to ensure timely decisions with respect to the import of chemicals listed in Annex III.
- (2) Each Party shall transmit to the Secretariat, as soon as possible, and in any event not later than nine months after the date of dispatch of the decision guidance document referred to in paragraph 3 of Article 7, a response concerning the future import of the chemical concerned. If a Party modifies this response, it shall forthwith submit the revised response to the Secretariat.
- (3) The Secretariat shall, at the expiration of the time period in paragraph 2, forthwith address to a Party that has not provided such a response, a written request to do so. Should the Party be unable to provide a response, the Secretariat shall, where appropriate, help it to provide a response within the time period specified in the last sentence of paragraph 2 of Article 11.
- (4) A response under paragraph 2 shall consist of either:
 - (a) a final decision, pursuant to legislative or administrative measures:
 - (i) to consent to import;
 - (ii) not to consent to import; or
 - (iii) to consent to import only subject to specified conditions; or
 - (b) an interim response, which may include:
 - (i) an interim decision consenting to conditions, or not consenting to import during the interim, period;
 - (ii) a statement that a final decision is under active consideration;
 - (iii) a request to the Secretariat, or to the party that notified the final regulatory action, for further information;
 - (iv) a request to the Secretariat for assistance in evaluating the chemical.
- (5) A response under subparagraphs (a) or (b) of paragraph 4 shall relate to the category or categories specified for the chemical in Annex III.
- (6) A final decision should be accompanied by a description of any legislative or administrative measures upon which it is based.
- (7) Each Party shall, not later than the date of entry into force of this Convention for it, transmit to the Secretariat responses with respect to each chemical listed in Annex III. A Party that has provided such responses under the Amended London Guidelines or the International Code of Conduct need not resubmit those responses.
- (8) Each Party shall make its responses under this Article available to those concerned within its jurisdiction, in accordance with its legislative or administrative measures.
- (9) A party that, Pursuant to paragraphs 2 and 4 above and paragraph 2 of Article II, takes a decision not to consent to import of a chemical or to consent to its import only under specified conditions shall, if it has not already done so, simultaneously prohibit or make subject to the same conditions:
 - (a) import of the chemical from any source; and
 - (b) domestic production of the chemical for domestic use.
- (10) Every six months the Secretariat shall inform all Parties of responses it has received. Such information shall include a description of the legislative or administrative measures on which the decisions have been based, where available. The Secretariat shall, in addition, inform the Parties of any cases of failure to transmit a response (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 10 stand part of the Treaty, put and agreed to.

ARTICLE 11—OBLIGATION IN RELATION TO EXPORTS OF CHEMICALS LISTED IN ANNEX III

- (1) Each exporting Party shall:
 - (a) implement appropriate legislative or administrative measures to communicate the responses forwarded by the Secretariat in accordance with paragraph 10 of Article 10 to those concerned within its jurisdiction;
 - (b) take appropriate legislative or administrative measures to ensure that exporters within its jurisdiction comply with decisions in each response not later than six months after the date on which the Secretariat first informs the Parties of such response in accordance with paragraph 10 of Article 10;
 - (c) advise and assist importing Parties upon request and as appropriate:
 - (i) to obtain further information to help them to take action in accordance with paragraph 4 of Article 10 and paragraph 2 (c) below; and
 - (ii) to strengthen their capacities and capabilities to manage chemicals safely during their life-cycle.
- (2) Each Party shall ensure that a chemical listed in Annex III is not exported from its territory to any importing Party that, in exceptional circumstances, has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, unless:
 - (a) it is a chemical that, at the time of import, is registered as a chemical in the importing Party; or
 - (b) it is a chemical for which evidence exists that it has previously been used in, or imported into, the importing Party and in relation to which no regulatory action to prohibit its use has been taken; or
 - (c) explicit consent to the import has been sought and received by the exporter through a designated national authority of the importing party. The importing party shall respond to such a request within sixty days and shall promptly notify the Secretariat of its decision.

The obligations of exporting Parties under this paragraph shall apply with effect from the expiration of a period of six months from the date on which the Secretariat first informs the Parties, in accordance with paragraph 10 of Article 10, that a Party has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, and shall apply for one year (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 11 stand part of the Treaty, put and agreed to.

ARTICLE 12—EXPORT NOTIFICATION

- (1) Where a chemical that is banned or severely restricted by a Party is exported from its territory, that Party shall provide an export notification to the importing Party. The export notification shall include the information set out in Annex V.
- (2) The export notification shall be provided for that chemical prior to the first export following adoption of the corresponding final regulatory action. Thereafter, the export notification shall be provided before the first export in any calendar year. The requirement to notify before export may be waived by the designated national authority of the importing Party.
- (3) An exporting Party shall provide an updated export notification after it has adopted a final regulatory action that results in a major change concerning the ban or severe restriction of that chemical.
- (4) The importing Party shall acknowledge receipt of the first export notification received after the adoption of the final regulatory action. If the exporting party does not receive the acknowledgement within thirty days of the dispatch of the export notification it shall submit a second notification. The exporting Party shall make reasonable efforts to ensure that the importing Party receive the second notification.
- (5) The obligation of a party set in paragraph 1 shall cease when:

- (a) the chemical has been listed in Annex III;
- (b) the importing Party has provided a response for the chemical to the Secretariat in accordance with paragraph 2 of Article 10; and
- (c) the Secretariat has distributed the response to the Parties in accordance with paragraph 10 of Article 10 (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 12 stand part of the Treaty, put and agreed to.

ARTICLE 13—INFORMATION TO ACCOMPANY EXPORTED CHEMICALS

- (1) The conference of the Parties shall encourage the World Customs Organization to assign specific Harmonized System Customs Codes to the individual chemicals or groups of chemicals listed in Annex III, as appropriate. Each Party shall require that, whenever a code has been assigned to such a chemical, the shipping document for that chemical bears the code when exported.
- (2) Without prejudice to any requirements of the importing Party, each Party shall require that both chemicals listed in Annex III and chemicals banned or severely restricted in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.
- (3) Without prejudice to any requirements of the importing Party, each Party may require that chemicals subject to environmental or health labelling requirements in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.
- (4) With respect to the chemicals referred to in paragraph 2 that are to be used for occupational purposes, each exporting Party shall require that a safety data sheet that follows an internationally recognized format, setting out the most up-to-date information available, is sent to each importer.
- (5) The information on the label and on the safety data sheet should, as far as practicable, be given in one or more of the official languages of the importing Party (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 13 stand part of the Treaty, put and agreed to.

ARTICLE 14

- (1) Each Party shall, as appropriate and in accordance with the objective of this Convention, facilitate:
 - (a) the exchange of scientific, technical; economic and legal information concerning the chemicals within the scope of this Convention, including toxicological, ecotoxicological and safety information;
 - (b) the provision of publicly available information on domestic regulatory actions relevant to the objectives of this Convention; and
 - (c) the provision of information to other Parties, directly or through the Secretariat, on domestic regulatory actions that substantially restrict one or more uses of the chemical, as appropriate.
- (2) Parties that exchange information pursuant to this Convention, shall protect any confidential information as mutually agreed.
- (3) The following information shall not be regarded as confidential for the purposes of this Convention:
 - (a) the information referred to in Annexes I and IV, submitted pursuant to Articles 5 and 6 respectively;
 - (b) the information contained in the safety data sheet referred to in paragraph 4 of Article 13;
 - (c) the expiry date of the chemical;

- (d) information on precautionary measures, including hazard classification, the nature of the risk and the relevant safety advice; and
 - (e) the summary results of the toxicological and ecotoxicological tests.
- (4) The production date of the chemical shall generally not be considered confidential or the purposes of this Convention.
- (5) Any Party requiring information on transit movements through its territory of chemicals listed in Annex III may report its need to the Secretariat, which shall inform all Parties accordingly (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 14 stand part of the Treaty, put and agreed to.

ARTICLE 15—IMPLEMENTATION OF THE CONVENTION

- (1) Each Party shall take such measures as may be necessary to establish and strengthen its national infrastructures and institutions for the effective implementation of this Convention. These measures may include, as required, the adoption or amendment of national legislative or administrative measures and may also include:
- (a) the establishment of national registers and databases including safety information for chemical;
 - (b) the encouragement of initiatives by industry to promote chemical safety; and
 - (c) the promotion of voluntary agreements, taking into consideration the provisions of Article 16.
- (2) Each party shall ensure, to the extent practicable, that the public has appropriate access to information on chemical handling and accident management and on alternatives that are safer for human health or the environment than the chemicals listed in Annex III.
- (3) The Parties agree to co-operate, directly or, where appropriate, through competent international organisations, in the implementation of this Convention at the sub-regional, regional and global levels.
- (4) Nothing in this Convention shall be interpreted as restricting the right of the Parties to take action that is more stringently protective of human health and the environment than that called for in this Convention, provided that such action is consistent with the provisions of this Convention and is accordance with international law (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 15 stand part of the Treaty, put and agreed to.

ARTICLE 16—TECHNICAL ASSISTANCE

The Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training, to other parties in developing their infrastructure and capacity to manage chemicals throughout their life-cycle (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 16 stand part of the Treaty, put and agreed to.

ARTICLE 17—NON-COMPLIANCE

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining noncompliance with the provisions of this Convention and for treatment of Parties found to be in non-compliance (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provision in Article 17 stand part of the Treaty, put and agreed to.

ARTICLE 18—CONFERENCE OF THE PARTIES

- (1) A conference of the Parties is hereby established.
- (2) The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP and the Director-General of FAO, acting jointly, not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference.
- (3) Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.
- (4) The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as financial provisions governing the functioning of the Secretariat.
- (5) The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:
 - (a) establish, further to the requirements of paragraph 6 below, such subsidiary bodies as it considers necessary for the implementation of the Convention;
 - (b) cooperate, where appropriate, with competent international organisations and intergovernmental and non-governmental bodies; and
 - (c) consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.
- (6) The Conference of the Parties shall, at its first meeting, establish a subsidiary body, to be called the Chemical Review Committee, for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:
 - (a) the members of the Chemical Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of a limited number of government-designated experts in chemicals management. The members of the Committee shall be appointed on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties;
 - (b) the Conference of the Parties shall decide on the terms of reference, Organisation and operation of the Committee;
 - (c) the Committee shall make every effort to make its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as at last resort be adopted by a two-thirds majority vote of the members present and voting.
- (7) The United Nations, its specialised agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 18 stand part of the Treaty, put and agreed to.

ARTICLE 19—SECRETARIAT

- (1) A Secretariat is hereby established.
- (2) The functions of the Secretariat shall be:

- (a) to make arrangements for meetings of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;
 - (b) to facilitate assistance to the Parties, particularly developing Parties and Parties with economies in transition, on request, in the implementation of this Convention
 - (c) to ensure the necessary co-ordination with the Secretariats of other relevant international bodies;
 - (d) to enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
 - (e) to perform the other Secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.
- (3) The Secretariat functions for this Convention shall be performed jointly by the Executive Director of UNEP and the Director-General of FAO, subject to such arrangements as shall be agreed between them and approved by the Conference of the Parties.
- (4) The Conference of the Parties may decide, by a three-fourths majority of the Parties present and voting, to entrust the Secretariat functions to one or more other competent international organisations, should it find that the Secretariat is not functioning as intended (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 19 stand part of the Treaty, put and agreed to.

ARTICLE 20—SETTLEMENT OF DISPUTES

- (1) Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.
- (2) When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party that is not a Regional Economic Integration Organisation may declare in a written instrument submitted to the Depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognises one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
- (a) arbitration in accordance with procedures to be adopted by the Conference of the Parties in an annex as soon as practicable; and
 - (b) submission of the dispute to the International Court of Justice.
- (3) A Party that is a regional economic integration Organisation may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraphs (a).
- (4) A declaration, made pursuant to paragraph 2 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.
- (5) The expiry of a declaration, a notice of revocation or a new declaration shall not in anyway affect proceedings pending before an arbitral tribunal or the International Court of Justice across the parties to the dispute otherwise agree.
- (6) If the Parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties not later than the second meeting of the Conference (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 20 stand part of the Treaty, put and agreed to.

ARTICLE 21—AMENDMENT TO THE CONVENTION

- (1) Amendments to this Convention may be proposed by any Party.
- (2) Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate the proposed amendment to the signatories to this Convention and, for information, to the Depositary.
- (3) The parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.
- (4) The amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.
- (5) Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three-fourths of Parties; thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Article 21 stand part of the Treaty, put and agreed to.

ARTICLE 22—ADOPTION AND AMENDMENT OF ANNEXES

- (1) Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.
- (2) Annexes shall be restricted to procedural, scientific, technical or administrative matters.
- (3) The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:
 - (a) additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;
 - (b) any Party that is unable to accept an additional annex shall so notify the Depositary; in writing, within one year from the date of communication of the adoption of the additional annex by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A party may at any time withdraw a previous notification of non-acceptance in respect of an additional annex and the annex shall thereupon enter into force for that Party subject to subparagraph (c) below; and
 - (c) on the expiry of one year from the date of the communication by the Depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b) above.
- (4) Except in the case of Annex III, the proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to the Convention.
- (5) The following procedure shall apply to the proposal, adoption and entry into force of amendments to Annex III:
 - (a) amendments to Annex III shall be proposed and adopted according to the procedure laid down in Articles 5 to 9 and paragraph 2 of Article 21;
 - (b) the Conference of the Parties shall take its decisions on adoption by consensus;

- (c) a decision to amend Annex III shall forthwith be communicated to the Parties by the Depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.
- (6) If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enter into force (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 22 stand part of the Treaty, put and agreed to.

ARTICLE 23—VOTING

- (1) Each Party to this Convention shall have one vote, except as provided for in paragraph 2 below.
- (2) A regional economic integration or Organisation, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an Organisation shall not exercise its right to vote if any of its member States exercises its right to vote, and *vice versa*.
- (3) For the purposes of this Convention, "Parties present and voting" means Parties present and casting an affirmative or negative vote (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 23 stand part of the Treaty, put and agreed to.

ARTICLE 24 —SIGNATURE

This Convention shall be open for signature at Rotterdam by all States and regional economic integration organisations on 11th September, 1998, and at United Nations Headquarters in New York from 12th September, 1998 to 10th September, 1999 (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 24 stand part of the Treaty, put and agreed to.

ARTICLE 25—RATIFICATION, ACCEPTANCE, APPROVAL OF ACCESSION

- (1) This Convention shall be subject to ratification, acceptance or approval by States and by Regional Economic Integration Organisations. It shall be open for accession by States and by Regional Economic Integration Organisations from the day after the date on which the Convention is closed for signature. Instruments of Ratification, Acceptance, Approval or Accession shall be deposited with the Depositary.
- (2) Any Regional Economic Integration Organisation that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organisations, one or more of whose member States is a Party to this Convention, the Organisation and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organisation and the member States shall not be entitled to exercise right under the Convention concurrently.
- (3) In its Instrument of Ratification, Acceptance, Approval or Accession, a Regional Economic Integration Organisation shall declare the extent of its competence in respect of the matters governed by this Convention. Any such Organisation shall also inform the Depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 25 stand part of the Treaty, put and agreed to.

ARTICLE 26—ENTRY INTO FORCE

- (1) This Convention shall enter into force on the ninetieth day after the date of deposit of the Fiftieth Instrument of Ratification, Acceptance, Approval or Accession.
- (2) For each State or Regional Economic Integration Organisation that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the Fiftieth Instrument of Ratification, Acceptance, Approval, or Accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or Regional Economic Integration Organisation of its Instrument of Ratification, Acceptance, Approval or Accession.

- (3) For the purpose of paragraphs 1 and 2, any Instrument deposited by a Regional Economic Integration Organisation shall not be counted as additional to those deposited by member States of that Organisation (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 26 stand part of the Treaty, put and agreed to.

ARTICLE 27—RESERVATION

No reservations may be made to this Convention (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 27 stand part of the Treaty, put and agreed to.

ARTICLE 28—WITHDRAWAL

- (1) At any time after three years from the date on which this Convention has entered into force for a Party, the Party may withdraw from the Convention by giving written notification to the Depositary.
- (2) Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 28 stand part of the Treaty, put and agreed to.

ARTICLE 29—DEPOSITARY

The Secretary-General of the United Nations shall be the Depositary of this Convention (*Hon. Abdul Ningi*) — Agreed to.

Question that the provision in Article 29 stand part of the Treaty, put and agreed to.

ARTICLE 30—AUTHENTIC TEXTS

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorised to that effect, have signed this Convention.

DONE at Rotterdam on this tenth day of September, One Thousand, Nine Hundred and Ninety-Eight (*Hon. Abdul Ningi*) — Agreed to.

Question that the provisions in Article 30 stand part of the Treaty, put and agreed to.

Annex I

INFORMATION REQUIREMENTS FOR NOTIFICATIONS MADE PURSUANT TO ARTICLE 5

Notification shall include:

- (1) Properties, identification and uses:
- (a) common name;
 - (b) chemical name according to an internationally recognized nomenclature, for example, International Union of Pure and Applied Chemistry (IUPAC), where such nomenclature exists;
 - (c) trade names and names of preparations;
 - (d) code numbers, Chemicals Abstract Service (CAS) numbers, Harmonised system customs code and other numbers;
 - (e) Information on hazard classification, where the chemical is subject to classification requirements;

- (f) use or uses of the chemical;
 - (g) physicochemical, toxicological and eco-toxicological properties.
- (2) Final Regulatory Action:
- (a) information specific to the final regulatory actions:
 - (i) summary of the final regulatory action;
 - (ii) reference to the regulatory document;
 - (iii) date of entry into force of the final regulatory action;
 - (iv) indication of whether the final regulatory action was taken on the basis of a risk or hazard evaluation, covering a reference to the relevant documentation;
 - (v) reasons for the final regulatory action relevant to human health, including the health of consumers and workers, or the environments;
 - (vi) summary of the hazards and risks presented by the chemical to human health including the health of consumers and workers, or the environment and the expected effect of the final regulatory action;
 - (b) category or categories where the final regulatory actions has been taken, and for each category:
 - (i) use or uses prohibited by the final regulatory action;
 - (ii) use or uses that remain allowed;
 - (iii) estimation, where available, of quantities of the chemical produced, imported, exported and used;
 - (c) an indication, to the extent possible, of the likely relevance of the final regulatory action to other States and regions;
 - (d) other relevant information that may cover:
 - (i) assessment of socioeconomic effects of the final regulatory action;
 - (ii) information on alternatives and their relative risks, where available, such as:
 - integrated pest management strategies;
 - industrial practices and processes, including cleaner technology (Hon. Abdul Ningi) — Agreed to.

Question that the provisions in Annex 1 stand part of the Treaty, put and agreed to.

Annex II

CRITERIA FOR LISTING BANNED OR SEVERELY RESTRICTED CHEMICALS ANNEX III

In reviewing the notifications forward by the Secretariat pursuant to paragraph 5 of Article 5, the Chemical Review Committee shall:

- (a) confirm that the fiscal regulatory action has been taken in order to protect human health or the environment;
- (b) establish that the final regulatory action has been taken as a consequence of a risk evaluation. This evaluation shall be based on a review of scientific data in the context of the condition prevailing in the Party in question. For this purpose, the documentation provided shall demonstrate that:
 - (i) data have been generated according to scientifically recognised methods;

- (ii) data reviews have been performed and documented according to generally recognized scientific principles and procedures;
- (iii) the final regulatory action was based on a risk evaluation involving prevailing conditions within the Party taking the action;
- (c) consider whether the final regulatory action provides a sufficiently broad basis to merit listing of the chemical in Annex III, by taking into account:
 - (i) whether the final regulatory action led, or would be expected to lead, to a significant decrease in the quantity of the chemical used or the number of its uses;
 - (ii) whether the final regulatory action led to an actual reduction of risk or to result in a significant reduction of risk for human health or the Party that submitted the notification;
 - (iii) whether the considerations that led to the final regulatory action being are applicable only in a limited geographical area or in other limited;
 - (iv) whether there is evidence of ongoing international trade in the chemical;
- (d) take into account that intentional misuse is not in itself an adequate reason Annex III (*Hon. Abdul Ningi*) — *Agreed to*.

Question that the provisions in Annex II stand part of the Treaty, put and agreed to.

Annex III

CHEMICALS SUBJECT TO THE PRIOR INFORMED CONSENT PROCEDURE

Chemical	Relevant CAS Number(s)	Category
2, 4, 5, T	93-76-5	Pesticides
Aldrin	309-00-2	Pesticide (B)
Captafol	191905	Pesticide (SR)
Chlordane	57-74-9	Pesticide (B)
Chlordimeform	6164-98-3	Pesticide (B)
Chlorobenzilate	510-15-6	Pesticide (B)
DDT	50-29-3	Pesticide (B)
Dieldrin	60-57-1	Pesticide (B)
Dinoseb and Dinoseb Salts	88-85-7	Pesticide (B)
1, 2 Dibromoethane (EDB)	106-93-4	Pesticide (B)
Fluoroacetamide	640-19-7	Pesticide (B)
HCH (Mixed Isomers)	608-73-1	Pesticide (Banned)
Heptachlor	76-44-8	Pesticide (B)
Hexachlorobenzene	118-74-1	Pesticide (BSR)
Lindane	58-89-9	Pesticide (SR)
Mercury compounds including inorganic mercury compounds, alkyl mercury compounds and alkyl oxy-alkyl and alkyl mercury compounds		Pesticide
Pentachlorophenol	87-86-5	Pesticide

Monochrotophos (soluble liquid formulations of the substance that exceed 600g active ingredients/l)	38312	Severely hazardous pesticide formulation
Methamidophos (soluble liquid formulations of the substance that exceed 600g active ingredients/l)	10265-92-6	Severely hazardous pesticide formulation banned
Phosphamidon (soluble liquid formulations of the substance that exceed 1000g active ingredients/l)	13171-21-6 (mixture (E) & (Z) isomers) 23783-98-4 (Z) isomer) 297-99-4 (E) isomer)	Severely hazardous pesticide formulation
Methyl-parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredients and dusts containing 1.5%, 2% and 3% active ingredient)	298-00-0	Severely hazardous pesticide formulation banned
Parathion (all formulations-aerosols, dust-able powder (DP), emulsifiable concentrate (EC), granules (GR) and wet-table powders (WP) of this substance are included, except capsule suspensions (CS)	56-38-2	Severely hazardous pesticide formulation banned
Crocidolite	12001-28-4	Industrial (B)
Poly-brominated biphenyls (PBB)	36355-01-8 (hexa-) 27858-07-7 (octa-) 13654-09-6 (deca-)	Industrial (SR)
Poly-brominated terphenyls (PCB)	1336-36-3)	Industrial (SR)
Poly-brominated terphenyls (PCT)	61788-33-8	Industrial (SR)
Tris (2, 3-dibromopropyl Phosphate) (Hon. Abdul Ningi) — Agreed to.	126-72-7	Industrial banned.

Question that the provisions in Annex III stand part of the Treaty, put and agreed to.

Annex IV

INFORMATION AND CRITERIA FOR LISTING SEVERELY HAZARDOUS PESTICIDE FORMULATIONS IN ANNEX III

PART I—DOCUMENTATION REQUIRED FROM A PROPOSING PARTY

Proposals submitted pursuant to paragraph 1 of Article 6 shall include adequate documentation containing the following information:

- name of the hazardous pesticide formulation;
- name of the active ingredient or ingredients in the formulation;
- relative amount of each active ingredient in the formulation;
- type of formulation;
- trade names and names of the producers, if available;
- common and recognized patterns of use of the formulation within the proposing Party ;
- a clear description of incidents related to the problem, including the adverse effects and the way in which the formulation was used;

- (h) any regulatory, administrative or other measure taken, or-intended to be taken by the proposing Party in response to such incidents.

PART II—INFORMATION TO BE COLLECTED BY THE SECRETARY

Pursuant to paragraph 3 of Article 6, the Secretariat shall collect relevant information relating to the formulation, including:

- (a) the physicochemical, toxicological and eco-toxicological properties of formulation;
- (b) the existence of handling or applicator restrictions in other States;
- (c) information on incidents related to the formulation in other States;
- (d) information submitted by other Parties, international organisations, non-governmental organisations or other relevant sources, whether national or international;
- (e) risk and/or hazardous evaluations, where available
- (f) indications, if available, of the extent of use of the formulation, such as the number of registration or production or sales quantity;
- (g) other formulations of the pesticide in question, and incidents, if any, relating to these formulations;
- (h) alternative pest-control practices;
- (i) other information which the Chemical Review Committee may identify as relevant.

PART III—CRITERIA FOR LISTING SEVERELY HAZARDOUS PESTICIDE FORMULATIONS IN ANNEX III

In reviewing the proposals forwarded by the Secretariat pursuant to paragraph 5 of Article 6, the Chemical Review Committee shall take, into account:

- (a) the reliability of the evidence indicating that use of the formulation, in accordance with common or recognized practices within the proposing Party, resulted in the reported incidents;
- (b) the relevance of such incidents to other States with similar climate, conditions and patterns of use of the formulation;
- (c) the existence of handling or applicator restrictions involving technology or techniques that may not be reasonably or widely applied in States lacking the necessary infrastructure;
- (d) the significance of reported effects in relation to the quantity of the formulation used;
- (e) that intentional misuse is not in itself an adequate reason to list a formulation in Annex III (*Hon. Abdul Ningsi*) — *Agreed to.*

Question that the provisions in Annex IV stand part of the Treaty, put and agreed to.

Annex V

INFORMATION REQUIREMENTS FOR EXPORT NOTIFICATION

1. Export notifications shall contain the following information:

- (a) name and address of the relevant designated national authorities of the exporting Party and the importing Party;
- (b) expected date of export to the importing Party;
- (c) name of the banned or severely restricted chemical and a summary of the information specified in Annex I that is to be provided to the Secretariat in accordance with Article 5. Where more than one such chemical is included in a mixture or preparation, such information shall be provided for each chemical;

- (d) a statement indicating, if known, the foreseen category of the chemical and its foreseen use within that category in the importing Party
 - (e) information on precautionary measure to reduce exposure to, and emission of the chemical;
 - (f) in the case of a mixture or a preparation, the concentration of the banned or severely restricted chemical or chemicals in question;
 - (g) Name and address of the importer;
 - (h) any additional information that is readily available to the relevant designated national authority of the exporting Party that would be of assistance to the designated national authority of the importing party.
2. In addition to the information referred to in paragraph 1, the exporting Party shall provides such further information specified in Annex I as may be requested by the importing party (*Hon. Abdul Ningi*) — *Agreed to.*

Question that the provisions in Annex V stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole considered the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 2003 and approved the Preamble to the Enactment, Clauses 1 and 2, Articles 1 - 30 and Annexes I-IV of the Treaty.

Question that the House adopt the Report of the Committee of Whole, put and agreed to.

13. Adjournment:

That this House do now adjourn till Tuesday, 1 June, 2004 at 10.00 a.m. (*Hon. Abdul Ningi*).

Adjourned accordingly at 12.30 p.m.

Aminu Bello Masari
Speaker