



Fifty-fourth session

10 November 1999

Official Records

Original: English

Sixth Committee

Summary record of the 14th meeting

Held at Headquarters, New York, on Friday, 22 October 1999, at 3 p.m.

Chairman: Mr. Mochochoko (Lesotho)

Contents

Agenda item 158: Establishment of an international criminal court (*continued*)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

The meeting was called to order at 3.15 p.m.

Agenda item 158: Establishment of an international criminal court (*continued*) (PCNICC/1999/L.3/Rev.1, L.4/Rev.1 and L.4/Rev.1* (French only); A/54/98)

1. **Mr. Wenaweser** (Liechtenstein) said that the adoption of the Statute of the International Criminal Court had been a historic step and welcomed the good results achieved during the first two sessions of the Preparatory Commission. Nevertheless, further effort would be required to meet the deadline of June 2000 for the finalization of work on the Elements of Crimes and the Rules of Procedure and Evidence. Continued high priority should also be given to the International Criminal Court process.

2. Progress had been achieved in a professional and businesslike atmosphere, as compared with the emotionally charged climate of Rome, possibly a sign of an evolving broader acceptance of the Statute. The deficiencies of some provisions were irrelevant when compared to the unique achievement of the Statute as a whole, and its integrity should be maintained. The Rules of Procedure and Evidence and the Elements of Crimes should not therefore restrict the Court's ability to interpret applicable international law in accordance with the letter and spirit of the Statute.

3. The most important expression of political support for the Court was the signature and ratification of the Statute. Its early entry into force was a major goal, and the developments thus far were encouraging. Ratification of the Statute was a complex process which would be a considerable burden for many Governments. Liechtenstein had signed the Statute when it had been opened for signature in Rome and hoped to complete the ratification process by the end of 2000.

4. One important characteristic of the Statute was its preventive potential. The long unchallenged practice of impunity had suffered a number of major and welcome setbacks in the recent past, and an effective International Criminal Court would be the most important contribution to terminating it. It was increasingly understood that the root causes of armed conflicts — particularly internal ones — were complex and could include patterns of violations of human rights and crimes such as those dealt with in the Statute. Thus the prevention of such conflicts was not only the most efficient, but sometimes the only viable, way to deal with situations that threatened international peace and security. Seen in that context, the International Criminal Court was of unique importance,

and its early realization was a collective responsibility for all.

5. **Mrs. Semambo-Kalema** (Uganda) drew attention to the advances in the progressive development of international law that had been achieved on the threshold of the new millennium and said that the adoption of the Statute of the International Criminal Court had been a major milestone. The establishment of the Court would go a long way to ensuring that those who committed grievous crimes against humanity did not escape punishment, thereby reaffirming the rule of law. She looked forward to the time when heinous crimes in addition to crimes against humanity, genocide and war crimes would be brought under the Court's jurisdiction.

6. The work to bring the long-desired Criminal Court into operation was scheduled for completion by 30 June 2000. Her delegation attached great importance to the work of the Preparatory Commission, which sought to accommodate various legal systems, and believed that adequate time and resources should be allocated to the Commission to enable it to continue its work.

7. As the Preparatory Commission carried out its work, States should recall their obligation to sign and ratify the Statute, since neglecting to do so would mean that their efforts had been wasted. Although 88 States had signed the Statute, only four had ratified it to date, and 60 ratifications were required for its entry into force. Uganda had signed the Statute on 17 March 1999 and was working to complete the internal procedures for its ratification, and she urged other States that had not yet done so to do likewise. Her delegation had participated in the briefing sessions on ratification and implementation legislation hosted by the International Human Rights Law Institute of De Paul University and Parliamentarians for Global Action on 31 July and 7 August 1999 at United Nations Headquarters and had found them to be very useful.

8. She thanked those countries that had contributed to the trust fund established to facilitate the participation of the least developed countries in the work of the Preparatory Commission. Her delegation pledged its continued support to the Preparatory Commission as it discharged its mandate and hoped that the spirit of cooperation and understanding demonstrated during the Rome Conference would continue to prevail.

9. **Mr. Adamhar** (Indonesia) said that the post-cold-war period had contributed to an escalation of tension and had paved the way for the emergence of ethnic nationalism in a fragile nation. Violent and grievous crimes continued

to plague the global scene, and national judicial systems and international cooperation had often been insufficient to deal with them.

10. It was to be hoped that the International Criminal Court would be a permanent judicial mechanism to ensure the advancement of justice at the international level. Indonesia had actively participated in the entire preparatory process, including both sessions of the Preparatory Commission, and was continuing its careful consideration of the Statute, which it hoped to disseminate to the entire Indonesian population.

11. Universal participation should be the cornerstone of the Court so that it would not fall prey to narrow political agendas. The Court should be a product of mutual cooperation among all nations regardless of differences in political, economic, social or cultural systems. Equally important was the need to observe the precepts embodied in the Charter of the United Nations, including consent, impartiality, non-discrimination, State sovereignty and territorial integrity. International law was based on the will of sovereign States to develop binding legal rules to govern inter-State relations, but such norms could only be binding when States gave their consent to be bound.

12. The principle of complementarity was of paramount importance, as the Court was intended to supplement and not supplant national jurisdiction. It should therefore exercise jurisdiction only with the consent of the States concerned, and refrain from handling cases that were already before national courts. The Court must not become a mechanism for interfering in State's internal affairs but should fulfil its central objective of facilitating international cooperation and deterring the perpetration of heinous acts. To function, the Court must have a clear understanding of what constituted a specific crime, and he therefore supported the convening of working groups to reach a consensus on the definition of aggression and related issues.

13. Indonesia hoped that the work of the Preparatory Commission would be carried out in a spirit of cooperation and pragmatism. The adoption of the Statute should not be a reason to disregard the concerns of States that had not yet signed and ratified it.

14. **Ms. Pipan** (Slovenia) said that the adoption of the Statute had been a historic breakthrough in international law. The International Criminal Court would be an essential pillar of an emerging system of international justice and a powerful tool to address and deter the commission of serious crimes against humanity. The Court's complementary nature would provide an incentive

for States to honour their commitments and obligations under international law. However, further steps had to be taken to fulfil the mandate of the Rome Conference. Despite the complexity of the issues under consideration by the Preparatory Commission, she hoped that the States would continue to work efficiently and effectively in a spirit of compromise to achieve those objectives.

15. An internationally agreed definition of the crime of aggression in the Statute would make the Court's jurisdiction complete and offer a powerful deterrent to the illegitimate use of force by States. She therefore welcomed the Preparatory Commission's decision to establish a working group on the crime of aggression.

16. Completion of the Rules of Procedure and Evidence and the Elements of Crimes must go hand in hand with efforts to universalize acceptance of the Court. For Slovenia, ratification of the Statute was an important human rights priority and an internal legislative procedure was taking place to ensure the compatibility of the Court's Statute with the Slovenian Constitution. Once ratified, the Statute would have direct applicability in the Slovene legal system, owing to the constitutional principle of the supremacy of international law. The necessary implementing legislation would be adopted after ratification had taken place and the Penal Code would be amended to bring it fully in line with the Statute as well as current international humanitarian law standards. As many States shared similar concerns relating to ratification procedures, she welcomed the regional conferences and workshops that had been held on that subject.

17. **Mr. Kuindwa** (Kenya) said that the adoption of the Rome Statute had been a milestone in the progressive development of international law. It was particularly encouraging that 89 countries, including Kenya, had already signed that instrument, and he urged those countries that had not yet signed it to do so. Kenya was taking the necessary steps for early ratification, and hoped that other delegations would do the same.

18. Kenya's experience in cooperating with the International Criminal Tribunal for Rwanda had shown that it was possible to cooperate with such a court even without major changes in legislation. He therefore foresaw no major problem in Kenya's ability to cooperate with the International Criminal Court. His delegation recognized the necessity of establishing a forum where perpetrators of crimes which adversely affected not only the warring factions but also neighbouring countries could be brought to justice.

19. At its most recent session the Preparatory Commission had completed less than half of its work. Additional meetings should therefore be scheduled in order to allow the Commission to complete its work by the deadline of June 2000. It was essential to complete both the Rules of Procedure and Evidence and the Elements of Crimes, giving priority to the definition of the crime of aggression, which was relevant to the very spirit of the Statute. A compromise solution on that sensitive issue could surely be worked out without eroding the core of the crime itself. All those issues should be dealt with as soon as possible in order to create an atmosphere conducive to universal acceptance of the Statute.

20. He appealed to the relevant non-governmental organizations to extend their support to Kenya's subregion so that political, moral and social will could be mobilized in support of early ratification of the Statute. He also appealed to the developed countries and others to contribute to the trust fund to ensure the participation of the least developed countries in the work of the Preparatory Commission.

21. **Mr. Ogonowski** (Poland) said that adoption of the Rome Statute had greatly reinforced the existing system of safeguards against the abuses of universal legal norms. As the end of a century that had witnessed unprecedented human suffering approached, the need to develop a new culture characterized by respect for the rule of law was more apparent than ever, given that the world continued to witness widespread violations of legal norms and standards.

22. The signature of the Statute by nearly 90 States, including Poland, was encouraging. Ratification was a more complex process, however, and Poland was currently analysing the Statute in order to identify any provisions that would require changes in the country's domestic legal system. The Polish Criminal Code already contained specific provisions relating to genocide, aggression, crimes against humanity and war crimes.

23. The significant progress made by the Preparatory Commission was reassuring, and the goal for completion of the work on the Rules of Procedure and Evidence and the Elements of Crimes seemed to be within reach. The Commission should hold two three-week sessions in 2000 prior to the June deadline and one thereafter to begin work on other documents. One difficult task would be to consider the definition of aggression and the terms of the Court's jurisdiction over that crime. A clear message should be given that aggression was prohibited by international law and was also a punishable crime, as it frequently preceded

the commission of other serious crimes prohibited by international law. Ad Hoc tribunals did not play a preventive role. His delegation hoped that the discussion on the matter would be solely of a legal nature.

24. The Statute's effectiveness would largely depend on the level of support received from the international community, and efforts should continue to ensure the widest possible participation, while maintaining the integrity of the Statute.

25. **Mr. Bakoniarivo** (Madagascar) said it was generally acknowledged that the adoption of the Statute had required compromises of all States. He therefore welcomed the constructive atmosphere and spirit of cooperation that had marked the debate in the Preparatory Commission. Despite the difficulty inherent in harmonizing the requirements of different legal systems, much progress had been made, although much still remained to be done. He urged delegations to continue to endeavour to accommodate the concerns of others.

26. Given the June 2000 deadline, completion of work on the Rules of Procedure and Evidence and on the Elements of Crimes constituted the major challenge before the Preparatory Commission. The international seminar held in Paris on victims' access to the Court and the inter-sessional meeting at Siracusa, Italy, were valuable in furthering the Commission's work.

27. For some States, ratification of the Statute was dependent on the adoption of a definition of the crime of aggression. That matter and all other outstanding issues must therefore be settled by the scheduled deadline. He welcomed the many proposed definitions that had been submitted by States and believed that a working group should be established to consider them, taking as its basis the definition contained in General Assembly resolution 3314 (XXIX).

28. He expressed his delegation's appreciation for the assistance provided to enable the least developed countries to participate in the work of the Preparatory Commission.

29. While Madagascar was firmly committed to the establishment of the International Criminal Court, it faced legal and constitutional problems that must be resolved before it could ratify the Statute. His Government was giving serious consideration to the possibility of revising the Constitution in order to make that possible, and he encouraged other States that had not yet signed or ratified the Statute to do so as soon as possible.

30. **Ms. Ramoutar** (Trinidad and Tobago), speaking on behalf of the States members of the Caribbean Community

(CARICOM) that were members of the United Nations, welcomed the broad participation of the international community in the work of the Preparatory Commission and the constructive manner in which the Commission had proceeded during its first two sessions. The international seminar on victims' access to the Court and the inter-sessional meeting at Siracusa, Italy, had been helpful in advancing the work of the Commission.

31. In March 1999, legal experts from 10 CARICOM member States had met in Port-of-Spain at the Intergovernmental Regional Caribbean Conference for the signature and ratification of the Rome Statute of the International Criminal Court. Implementation legislation and ratification procedures had been discussed and Conference participants had declared their commitment to ensuring the integrity of the Statute and to pursuing ratification in their respective States within the shortest possible time. While internal parliamentary procedures for signature or ratification were frequently lengthy, they were nevertheless under way in several Caribbean States, and she encouraged all States that had not yet signed or ratified the Statute to endeavour to do so as early as possible.

32. **Mr. Traore** (Burkina Faso) commended the reports on the work of the Preparatory Commission.

33. His delegation hoped that the rules that would guide the Court's functioning would never be misused in the way that some other instruments of international law had been used by some States. The creation of a supranational jurisdiction should not target criminals in some States while ignoring those in others; court judgements must be applicable to criminals from all countries. Furthermore, the Elements of Crimes must not include any descriptions or wording that was inconsistent with the fundamental rules of international law. If a group of States sought to appropriate the Court for its own use, the efforts of the international community would have been in vain.

34. While his delegation fully supported the establishment of the Court, it did not expect that that institution would be able to solve all problems. A disturbing phenomenon of particular concern in that connection was the arms trade, and his Government believed that those who grew rich from trading in weapons or other means of perpetrating genocide must be classified as criminals.

35. His delegation was also concerned by efforts to prevent the Preparatory Commission from defining the crime of aggression, the most serious of all crimes. The elements of such a definition were already contained in the

general principles of international law, and that task must be tackled as a matter of priority.

36. If the rules governing the court were not established in a positive spirit, their ultimate impact would be considerably reduced. As ancient African societies well knew, rules did not lead to a better world if their underlying spirit was not positive. His delegation was also concerned that the Statute should be universal. However, universality was difficult to achieve given the existence of several different legal systems. The Preparatory Commission should therefore take the time needed to ensure that consensus was reached.

37. **Mr. Kanu** (Sierra Leone) said that his delegation had originally not intended to make a statement on the agenda item, as its position on the establishment of the International Criminal Court was well known. However, on the previous day, a new Cabinet had been formed in his country which included representatives of former rebel groups, all political parties and civil society as well as individuals with no party allegiance. While it was widely known that the rebel groups in Sierra Leone had committed atrocities, the inclusion of those groups in the new Government did not imply support for those acts. It was thus in the light of that development that his delegation wished to address the Committee.

38. African civilians continued to bear the brunt of war crimes, genocide and crimes against humanity. The international community's efforts to make the International Criminal Court a reality were therefore to be welcomed. His delegation was aware of the herculean tasks that lay ahead and, in the light of experience in Sierra Leone, had strong views concerning the definition of the crime of aggression. Nevertheless, it would not allow emotion to stand in the way of any consensus or compromise that might be reached on that subject, but looked forward to cooperating with the working group in a constructive manner.

39. States had a legal, moral and political imperative to support the early establishment of the Court, and he urged all delegations to impress on their Governments the need to sign and ratify the Statute in order to send a clear message to the perpetrators of heinous crimes such as those witnessed in his own country that they could no longer hide with impunity. While his Government had thus far been prevented from ratifying the Statute because of repeated rebel invasions, the arrival of peace in the country had made that step possible.

40. **Mr. Chowdhury** (Bangladesh) said that his delegation was participating in the work of the Preparatory

Commission in the conviction that the International Criminal Court would promote human rights all over the world, although it must be universally accepted and have independent authority to enforce its verdicts if it was to be effective. Bangladesh attached particular importance to the Court because the country had been the victim of genocide during its war of liberation in 1971.

41. The Prime Minister of Bangladesh had personally signed the Statute in New York one month previously and had indicated her country's commitment to the principles of the Court. The Government of Bangladesh had embarked upon the ratification process, which raised difficult technical and legal issues. Bangladesh and other least developed countries might well require technical cooperation to complete the ratification process and to implement the Statute in the future, and his delegation was grateful to those delegations that had offered to share their expertise in the area of implementation legislation.

42. He expressed satisfaction with the work of the first two sessions of the Preparatory Commission and thanked the contributors to the trust fund which had enabled least developed countries to participate in the Commission's work. However, the trust fund was now depleted, thus preventing universal participation in the establishment of a court.

43. With regard to the Preparatory Commission's future work, his delegation believed that the Rules of Procedure and Evidence and the Elements of Crimes must respect the letter and spirit of the Rome Statute to ensure the effective functioning of the Court. The Elements of Crimes should contain clear definitions and take international humanitarian law into account. He welcomed the decision to establish a working group on the crime of aggression, which was a serious violation of the principles of the Charter of the United Nations.

44. There was a need for dissemination of information on the Statute and the work of the Preparatory Commission. In that connection he recognized the important ongoing role played by the NGO Coalition for the Establishment of an International Criminal Court, whose efforts would be important in securing the ratifications needed for the Court to become operational.

45. **Ms. Todorova** (Bulgaria) said that her delegation aligned itself with the views expressed by the representative of Finland on behalf of the European Union. As an associated country, Bulgaria shared the commitment of European Union member States to the early entry into force of the Rome Statute of the International Criminal Court, which would confirm the international community's

commitment to the rule of law as a means of ensuring peace and security and of punishing and preventing the crimes falling within the Court's jurisdiction.

46. Bulgaria had signed the Statute on 11 February 1999; however, ratification would depend on legislative changes in the Bulgarian Criminal Code and Code of Criminal Procedure. While existing provisions of the Criminal Code conformed to a great extent with the provisions of the Rome Statute, total conformity was required. It was expected that all the necessary changes could be made by the end of the year 2000.

47. Her delegation attached great importance to the work of the Preparatory Commission on the Rules of Procedure and Evidence and the Elements of Crimes. It welcomed the significant results produced during the Commission's first two sessions and hoped that the Commission would continue its work in a spirit of compromise and understanding, in order to be able to complete it promptly.

48. **Ms. Efrat-Smilg** (Israel) said that, given the history of the Jewish people in the twentieth century, Jewish jurists and statesmen had been among the first to advocate the establishment of an international criminal court. Her delegation firmly believed that the heinous crimes referred to in the Rome Statute were a menace to all and should be dealt with by the international community as a whole.

49. Only because her delegation attached the utmost importance to the establishment of the Court had it expressed some concerns with regard to the Statute. It doubted, for example, that the crime of transfer of civilian populations, referred to in article 8, paragraph 2 (b) (viii), deserved to be ranked with some of the other genuinely heinous war crimes listed in that article. In defining the elements of that crime, it should be borne in mind that the chapeau of article 8, paragraph 2 (b), categorized it among the "serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law". International law pertaining to the crime of transfer was based on article 49 of the Fourth Geneva Convention. Consequently, one necessary element of the crime should be that the transfer was in violation of that provision.

50. Moreover, the addition at Rome of the phrase "directly or indirectly" to article 8, paragraph 2 (b) (viii), of the Statute had no basis in the established framework of international law, but could only be explained as politically motivated. The phrase could not alter the nature of the offence in the context of the chapeau's requirement that it should be interpreted within the established framework of international law, nor could it change the sense of

involuntariness implicit in the term “transfer” in that context. The Statute must not be abused for political ends. The Court was too important for the international community to allow it to be blemished by political agendas.

51. **Mr. Edmond** (Haiti) said that the adoption of the Rome Statute showed the international community’s determination to call a halt to the reign of terror and impunity. The need for the Court was incontestable in the light of recent atrocities, yet 15 months after its adoption only 88 States had signed it and only four had ratified it.

52. Ratification of the Statute depended greatly on compatibility with national laws, which meant that some countries would have to amend their domestic legislation. His delegation welcomed the offer of the European Union to place its expertise at the service of developing countries in that regard.

53. His delegation steadfastly maintained that the Statute should always prevail over the Rules of Procedure and Evidence and the Elements of Crimes, which were to be elaborated only as accessory rules to assist the Court in interpreting the Statute. In defining the elements of crimes, his delegation was in favour of a succinct core of elements like those found in Roman and German law. Four elements were sufficient for determining the existence of an offence: a material element, a legal element, a moral element and an element of intent. A plethora of elements would merely complicate the judge’s task.

54. Haiti was particularly interested in the work on defining the crime of aggression. Since no consensus had yet been reached, his delegation favoured the establishment of a working group to make recommendations on the topic and supported the idea of holding two sessions prior to the scheduled deadline of 30 June 2000 for the completion of the Preparatory Commission’s work.

55. **Mr. Obeid** (Syrian Arab Republic) said that he supported the establishment of the International Criminal Court on the basis of the principle of universality of and taking into account the diverse cultural and legal backgrounds of those contributing towards its establishment. It was essential that the Court should be free of all political influences if it was to be fully independent and impartial.

56. The Rome Conference had been but the start of the process, and quality should not be sacrificed to time, since the work of the Preparatory Commission, particularly that concerning the Rules of Procedure and Evidence, the Elements of Crimes and the definition of the crime of aggression, would be a major determining factor in the

decision of States to sign and ratify the Court’s Statute. The aim was to ensure that the Court would try all international criminals without exception, and it was therefore crucial to remain faithful to the letter and spirit of the Rome Statute and eschew any attempts to refine or amend it.

57. Defining the crime of aggression was more important than determining the elements of crimes, since aggression constituted the basis of the other crimes over which the Court exercised jurisdiction. He hoped that the significant steps which the Preparatory Commission had taken to address the issue would facilitate a speedy resolution of the matter, as States might feel hesitant to sign and ratify the Statute, unless the crime was clearly defined. Conversely, the Court could be established without determining the elements of all crimes, which were already well known, or formulating highly detailed rules of procedure and evidence; trust should be placed in the ability of the judges of the Court to deal with unforeseen situations. A special agreement should also be concluded between the Security Council and the Court for subsequent annexation to the Rome Statute with a view to determining clearly the existence of a strong relationship between them that was devoid of political considerations.

58. The proposal which his and other delegations had submitted on the crime of aggression (PCNICC/1999/DP.11) and which had received considerable support, was built on the definition of the crime contained in General Assembly resolution 3314 (XXIX), and thus provided an excellent foundation for the achievement of an agreed definition which should cover all forms of aggression. As for the role of the Security Council, he shared the view expressed by the representative of the Islamic Republic of Iran that a mechanism was needed which guaranteed that role while simultaneously ensuring that perpetrators of aggression did not escape trial owing to the failure of the Council either to move expeditiously or to reach a positive decision if the right of veto was exercised. Although the proposal made by the representative of Cameroon was interesting, he cautioned against delay in reaching an early solution to the issues raised by the crime of aggression. Moreover, the Court should be equally empowered with the Council to determine instances of aggression, experience having shown that the Council did not always recognize such instances.

59. He expressed satisfaction at the achievements of the Working Group on the Elements of Crimes relating to war crimes and said that most delegations, including his own, attached special importance to identifying the elements of

the war crime of the deportation or transfer of citizens, which was particularly relevant in the case of the occupied Arab territories. The proposal submitted on that topic by Arab delegations (PCNICC/1999/WGEC/DP.25), which had been widely welcomed, was consistent with the principles of both international law and international humanitarian law. In his view, the crime consisted of only two elements, namely the material and the moral, and any attempt to include other elements would deplete the crime of its meaning and depart from the letter and spirit of the Rome Statute. The transfer of citizens was a repugnant war crime which flagrantly violated the principles of international humanitarian law and was not confined to the occupied Arab territories. It was purely a legal matter, and he regretted that discussion of the crime had been deferred until late in the previous session in an apparent attempt to pass it over and exert pressure on Arab States to accept a text that would serve the interests of the perpetrators of that crime. In any event, the provisions of the Rome Statute were now final and could not be amended to enable the Court to render judgements which suited certain States and individuals to the exclusion of others.

60. **Mr. Jeannot** (Observer for the International Committee of the Red Cross (ICRC)) hoped that the Rome Statute would be ratified by a large number of States and that they would refrain from exercising their right under the Statute to refuse the Court's jurisdiction for a period of seven years in respect of war crimes allegedly committed by their nationals or on their territory. For its part, ICRC would continue to develop its efforts to assist States in adopting and implementing national legislation pertaining to the prosecution of war criminals in general and to the Rome Statute in particular.

61. The utmost attention should be paid to drafting the Rules of Procedure and Evidence and the Elements of Crimes to ensure that they properly reflected existing international humanitarian law. To that end, ICRC had prepared parts of an extensive study of relevant international and national case law on the elements of war crimes. If carefully drafted, the Elements of Crimes could represent an important tool for ensuring the uniform application of the law at both international and national levels. In that connection, the highly constructive approach shown by delegations boded well for the eventual adoption of that instrument, which would undoubtedly assist the judges of the Court.

62. **Ms. Efrat-Smilg** (Israel), speaking in exercise of the right of reply, said that the statement by the representative of the Syrian Arab Republic was a clear demonstration of the dangers facing the Court and the extreme caution and

restraint that would be needed to make it a success. There was no need for a new forum which would merely echo the political deliberations going on in other United Nations forums. The only rationale for the creation of the Court was that it should be an entirely new, non-politicized, type of body.

63. **Mr. Obeid** (Syrian Arab Republic), speaking in exercise of the right of reply, said that his statement had merely been a factual description of the work done in the Preparatory Commission based on the principles of international and customary law, including the Geneva Conventions of 1949 and humanitarian law. Any other implication was an invention of the previous speaker which sought to excuse the crimes of aggression and transfer being committed daily by Israel in occupied territories in the Syrian Arab Republic, Jordan and Lebanon and in the occupied Palestinian territories. His delegation was not "politicizing" but discussing the jurisdiction of the Court. The war crime of transfer of civilian populations had been identified as a serious crime not only by the Rome Statute but also by the Geneva Conventions — in other words, long before Israel had committed such a crime. The progress of the Middle East peace process was irrelevant to the work of the Preparatory Commission, and in any case had broken down on account of Israel's stubbornness. The Rome Statute had been adopted and should remain intact.

64. **Mr. Diab** (Lebanon), speaking in exercise of the right of reply, said he wished to reiterate that the Rome Statute had been definitively adopted; the task at hand was to describe the elements of the crimes it identified. The crime of transfer of civilian populations, which Israel did not consider a heinous one, continued to be committed by Israel in occupied Lebanese territory. Israeli actions had claimed many victims and caused much suffering to the people of Lebanon and had seriously damaged that country's economy. It was highly important to arrive at a legally acceptable definition of the crimes of aggression and transfer for use by the new International Criminal Court.

65. **Ms. Efrat-Smilg** (Israel), said she wished to reiterate that the Court should be a new kind of body, dedicated to noble aims, not merely another forum in which to repeat the same political debates heard elsewhere.

66. **Mr. Obeid** (Syrian Arab Republic) said it was evident that Israel was afraid to allow the International Criminal Court to have jurisdiction over the crimes it was committing in the occupied Arab territories.

The meeting rose at 5.30 p.m.