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Chair: Ms. Al-Thani (Qatar)

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The meeting was called to order at 10 a.m.

Agenda item 83: Crimes against humanity
(continued)

1. **Mr. Roughton** (New Zealand) said that crimes against humanity, along with genocide and war crimes, were the most serious crimes of concern to the international community as a whole. His delegation supported working towards negotiations for a convention based on the draft articles on prevention and punishment of crimes against humanity prepared by the International Law Commission, in order to articulate clear, legally binding rules and consequences for the commission of crimes against humanity. The draft articles reflected the recognition that the effective prevention and prosecution of such crimes required measures at the national level and also international cooperation, including with regard to extradition and mutual legal assistance.

2. The negotiation of a convention would complete the important exercise of codification of the law concerning crimes against humanity and would be a critical step for the international community to take action to prevent such atrocities and ensure accountability for the perpetrators. A broad-based and inclusive dialogue should be conducted in order to determine the way forward. New Zealand supported the establishment of an ad hoc committee to discuss the draft articles as the first step towards a negotiation process. The establishment of a forum for the exchange of views on the draft articles could only enrich Member States' appreciation of each other's views.

3. **Mr. Nyanid** (Cameroon) said that his delegation was concerned by the definition of crimes against humanity included in the draft articles on prevention and punishment of crimes against humanity. The International Law Commission had opted to use the definition set out in the Rome Statute of the International Criminal Court; however, the Rome Statute was not universally accepted, which meant that the definition was intrinsically questionable. The listing of what constitute crimes against humanity showed that those crimes hinged on discrimination, yet that criterion alone was not sufficient, since there were other interests and complex reasons that could give rise to crimes against humanity. Further thought on the definition was therefore needed.

4. Moreover, as the forms of discrimination had changed considerably, his delegation wondered about the implications of expanding the list of offences designated as crimes against humanity. It was essential to avoid trivializing such a serious offence. In the

definition of crimes against humanity, it must be specified that such crimes were intended to dehumanize the individual and the group to which the individual belonged or was associated with in the mind of the perpetrator. Depriving the victims of their dignity and their rights was not only a consequence of such crimes; it was what motivated them. Crimes against humanity could thus be distinguished from other forms of crime by their widespread and systematic nature and by their motive, which was not external to the crime, but inherent in it.

5. His delegation noted that there was no established *opinio juris* on the matter and therefore believed that a binding legal instrument on crimes against humanity would not be appropriate, as such an instrument could encroach upon national sovereignty. Furthermore, his delegation saw no legal gap with regard to crimes against humanity and therefore viewed codification of the law on the matter as unnecessary. The perpetrators of crimes against humanity could be prosecuted under the laws of their country. To that end, it was essential to develop and strengthen national capacity for investigation and prosecution and to support international cooperation in the fight against impunity in general and against impunity for crimes against humanity in particular. Such cooperation should, however, be free from politicization, suspicion and manipulation. No one who committed such an attack on humanity should be given shelter by any State or be allowed to escape punishment simply through the passage of time. Such crimes should therefore be imprescriptible. To allow a crime against humanity to be forgotten would be tantamount to committing a new crime against the human race.

6. **Ms. Mägi** (Estonia) said that the international community must do more to prevent and punish crimes against humanity. The draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission reflected the call for further effort by the international community to end impunity for perpetrators of such crimes and provide justice for victims. Her Government firmly supported the elaboration of a convention on the basis of the draft articles, preferably by an international conference of plenipotentiaries. Such a convention would fill a gap in treaty law and, alongside the relevant international treaties on genocide and war crimes, would strengthen the international criminal law system. It would also be consistent with the principle of complementarity embodied in the Rome Statute of the International Criminal Court. In addition, a new convention would inspire and obligate States to review their national laws and strengthen international cooperation to combat the

most serious international crimes and prevent impunity. Her delegation supported the establishment of a clear timeline and mandate for inclusive and substantive discussions on the draft articles leading to a negotiation process in an appropriate forum.

7. **Mr. Pieris** (Sri Lanka) said that the definition of a crime against humanity as an act committed as part of an attack against civilians and the international community as a whole, generally in the context of an armed conflict, was controversial. Such attacks should be considered crimes against humanity whether or not they occurred in the context of an armed conflict, since they were attacks against humanity as a whole. Indeed, the International Tribunal for the Former Yugoslavia had indicated in a ruling, *inter alia*, that the rules proscribing crimes against humanity addressed the perpetrator's conduct not only towards the immediate victim but also towards the whole of humankind.

8. Under the Rome Statute of the International Criminal Court, crimes against humanity were considered to be among the most serious crimes of concern to the international community as a whole. It was widely accepted that crimes against humanity were core crimes, although they were not explicitly designated as such in the Rome Statute. The general understanding when it came to core crimes was "we know it when we see it". For that reason, there was overwhelming consensus about what constituted a core crime. At the same time, there were ambiguities in distinguishing core crimes, including crimes against humanity, from treaty crimes. It was also worth noting that there was a civilizational bias, a political and economic bias and an aesthetic bias in the designation of crimes against humanity as core crimes.

9. It was now a given that, for a crime to be considered a crime against humanity, it must be a widespread or systematic attack and it must be directed against a civilian population. However, there had been many instances in which certain groups had conveniently termed any act that went against their ideologies a crime against humanity. Such frivolous misuse of the term was appalling. Sri Lanka appreciated the contribution of the International Law Commission to the codification and development of international law and congratulated the Commission on the completion of its work on the draft articles on prevention and punishment of crimes against humanity. The public perception of such crimes, particularly the notion that "we know it when we see it", might be an area that the Commission should address.

10. **Mr. Mainero** (Argentina) said that, while the Rome Statute represented a significant step forward in

the normative work of defining crimes against humanity, it did not fill the legal gap with respect to the prevention and punishment of such crimes. A few crimes against humanity had been codified in international treaties, but most had not. The decision by the International Law Commission in 2019 to recommend the elaboration of a convention by the General Assembly based on the draft articles on prevention and punishment of crimes against humanity had marked a milestone, but little progress had been made since then. In its resolution [74/187](#), the General Assembly had merely taken note of the draft articles, and discussions on a convention in the Committee had failed to progress. During the current session, the Committee should at least agree on a road map for structuring the deliberations on a convention.

11. Argentina was firmly committed to combating impunity for the most serious international crimes and believed that a legally binding international instrument on the topic would consolidate the legal framework of international criminal law. Argentina was one of the core group of States, together with Belgium, Mongolia, the Netherlands, Senegal and Slovenia, leading the mutual legal assistance initiative to promote the adoption of a new convention on international cooperation in the investigation and prosecution of the crime of genocide, crimes against humanity and war crimes. That initiative was currently supported by 76 States. Its aim, like that of the draft articles, was to prevent impunity for the most serious crimes. However, its material scope and general approach were broader than those of the draft articles. The draft articles took a holistic approach and addressed a range of rules and concepts, from mutual legal assistance and the issue of extradition to prevention, State responsibility and reparations, solely for crimes against humanity, whereas the mutual legal assistance initiative focused on the creation of a comprehensive modern framework for mutual legal assistance and extradition in cases of genocide, crimes against humanity and war crimes. The two projects were therefore complementary and could continue to develop in parallel.

12. **Mr. Tun** (Myanmar) said that crimes against humanity were among the most serious crimes of concern to the international community as a whole and were a threat to international peace and security. Perpetrators of such crimes should be held accountable. States had the primary responsibility to exercise their criminal jurisdiction with respect to such crimes. While it was important to respect State sovereignty and avoid interference in States' domestic affairs, preventing serious crimes and fighting impunity should be a common goal for the international community. An international convention covering crimes against

humanity would help to end impunity for perpetrators and was acutely needed, especially in countries where the military was committing inhumane acts against its own people.

13. Since the military coup of 1 February 2021, the Myanmar military had been conducting a systematic and targeted campaign of attacks against the civilian population. To date, the military had extrajudicially, arbitrarily and summarily executed more than 1,100 civilians and had tortured many hundreds more. The victims of those crimes against humanity included not only anti-military protesters, but also women, children and innocent bystanders. The serious crimes committed by the military included the recent massacres in the Sagaing and Magway regions and other areas. The large-scale offensives in those areas had been conducted in a disproportionate and indiscriminate manner, with grave violations of human rights amounting to crimes against humanity. The military had also committed crimes against humanity in the past, including against the Rohingya people in 2017.

14. The National Unity Government was actively seeking accountability and justice for both past and ongoing crimes committed by the military. Accordingly, it had submitted a declaration to the registrar of the International Criminal Court in July 2021, accepting the Court's jurisdiction with respect to the international crimes committed in the territory of Myanmar since 2002. His delegation had appealed numerous times to the Security Council to take decisive and timely measures in response to the situation, including imposing a global arms embargo on the military to end its atrocities against civilians. The painful experiences in Myanmar clearly demonstrated the urgent need for an international convention on the prevention and punishment of crimes against humanity. His delegation supported the elaboration of a convention on the basis of the draft articles on prevention and punishment of crimes against humanity, which reflected the call for further efforts by the international community to end impunity for perpetrators of crimes against humanity and to provide justice for victims of such crimes.

15. **Mr. Wickremasinghe** (United Kingdom) said that, in broad terms, the draft articles on prevention and punishment of crimes against humanity provided a good basis for the negotiation of a convention. Such a convention would be a powerful tool for promoting international cooperation for the prosecution of such crimes at the national level. The work on the draft articles was an excellent example of the International Law Commission playing its traditional role: identifying a lacuna in the framework of multilateral treaties, collating a stable and sufficient body of State practice

and *opinio juris*, codifying the existing rules of customary international law on the matter and recommending appropriate aspects of the progressive development of international law.

16. The draft articles were a work of high quality and deserved serious consideration. His delegation recognized that Member States had differing views on both the content of the draft articles and the way forward. Nevertheless, it had been heartened to note that some common ground had emerged from the debate in the previous session. It was time to move towards a deeper, structured conversation on the draft articles in which all Member States could fully engage. The establishment of an ad hoc committee that could meet during the intersessional period, with sufficient time and with appropriate facilities, would provide the best means of enabling such a dialogue to proceed.

17. **Ms. Abu-ali** (Saudi Arabia) said that it was important to ensure that the definitions set forth in the draft articles on prevention and punishment of crimes against humanity for such concepts as enslavement, torture and enforced disappearance were consistent with those used in the relevant United Nations conventions. Care should be taken to avoid introducing new definitions that could create uncertainty as to the interpretation of those terms. In draft articles 7 and 9, the concept of universal criminal jurisdiction was applied in an expansive manner. Given that the agenda item "The scope and application of the principle of universal jurisdiction" was still being debated by the Committee, it was important to examine the considerable variance in the approaches taken in the legal systems of Member States with regard to the prevention of impunity and to avoid deviating from the principles enshrined in the Charter of the United Nations and in international law, particularly the sovereignty, immunity and equality of States.

18. **Mr. Flynn** (Ireland) said that his delegation strongly supported the elaboration of a convention on the basis of the draft articles on prevention and punishment of crimes against humanity, which reflected a balanced and nuanced approach and provided a proper starting point for the codification of the law on the subject. The Committee had now considered the draft articles on three occasions, and it was time to take action, bearing in mind that the end goal was not just the elaboration of an international convention but the creation of a national and international framework that would serve to prevent crimes against humanity and ensure that perpetrators of such crimes were punished. Ireland also remained committed to the successful conclusion of a multilateral treaty on mutual legal assistance and extradition to assist in the prosecution of

atrocities crimes. Such a treaty would be complementary to a convention on crimes against humanity based on the draft articles.

19. While an international conference of plenipotentiaries would be the preferred next step, his delegation appreciated that some Member States were not yet ready to convene such a conference. In order to allow time for debate and reflection on the next steps towards the drafting of a convention, Ireland could support the proposal for the creation of an ad hoc committee. However, for such a committee to be effective, its terms of reference must be clear and a precise time frame for the completion of its work must be established.

20. The international community had an obligation to promote and maintain international peace and security, justice and accountability. The elaboration of a convention on the prevention and punishment of crimes against humanity, reflecting the abhorrent nature of such crimes and the universal revulsion that the peoples of the United Nations felt when they occurred, would be a concrete step towards meeting that obligation.

21. **Ms. Anaf** (Belgium) said that her delegation had always attached great importance to the fight against impunity for the most serious crimes affecting the international community as a whole and supported the elaboration of a convention on the basis of the draft articles on prevention and punishment of crimes against humanity presented by the International Law Commission. Such a convention would fill the existing gap in international treaty law. An ad hoc committee of the General Assembly, with a clear mandate and a well-defined timetable, would be an appropriate framework to discuss various approaches and move towards the convening of a diplomatic conference.

22. Her delegation welcomed the deletion from the final version of the draft articles of the definition of gender as set forth in the Rome Statute. As explained in the commentary to draft article 2, developments in international human rights law and international criminal law should be taken into account in the definition of gender. Her delegation also recalled the mutual legal initiative launched by Argentina, Belgium, Mongolia, the Netherlands, Senegal and Slovenia, aimed at developing a modern operational framework for effective inter-State collaboration in the national prosecution of genocide, crimes against humanity and war crimes. That initiative pursued the same objective as the draft articles, and the two projects could therefore coexist and continue to develop in parallel.

23. **Ms. Mohd Izzuddin** (Malaysia) said that Malaysia stood firm in its belief in the rule of law and

its commitment to ending impunity. It had long held the position that genocide, war crimes, crimes against humanity and crimes of aggression were the most serious crimes of concern to the international community and that the perpetrators of such crimes should be brought to justice. In Malaysia, perpetrators of crimes against humanity could be prosecuted under the country's general criminal laws, the foremost of which was the Penal Code. International cooperation on the matter was mainly governed by the Mutual Assistance in Criminal Matters Act 2002 and the Extradition Act 1992. Her delegation remained flexible and supportive of the continued discussion and elaboration of the draft articles on prevention and punishment of crimes against humanity, whether by the General Assembly or an international conference of plenipotentiaries. It reiterated its hope that the draft articles would not overlap with, but rather complement, existing regimes.

24. **Mr. Hitti** (Lebanon) said that his Government was strongly committed to ensuring justice for the most heinous crimes, strengthening accountability and ending impunity. It saw strong merit in the development of a legally binding instrument that would close a normative gap in international law and strengthen national mechanisms. It therefore supported the elaboration of a convention based on the draft articles on prevention and punishment of crimes against humanity, preferably by a conference of plenipotentiaries. In order to be truly effective in preventing crimes against humanity, that convention would have to be widely accepted. Recognizing that some legitimate concerns had not been addressed and that some of the draft articles could be improved, Lebanon supported the establishment of a framework, with a clear mandate and a defined timetable, in which a meaningful, inclusive and results-oriented process could take place in a sound and stepwise manner, without prejudging the outcome.

25. **Mr. Hmoud** (Jordan) said that efforts to bring those who committed crimes against humanity to justice had been thwarted by lack of clear political will, the absence of an effective inter-State legal instrument to regulate international cooperation on the matter, and inconsistencies and discrepancies in domestic laws punishing those who committed such crimes. The draft articles on prevention and punishment of crimes against humanity adopted by the International Law Commission would address those issues by purporting to provide a comprehensive treaty regime that defined crimes against humanity and ensured prosecution through the application of the principle of *aut dedere aut judicare*. That regime would also facilitate inter-State cooperation and provide a basis for harmonizing domestic laws and

establishing domestic jurisdiction over crimes against humanity. Most importantly, it would create a duty for States to prevent and punish such crimes.

26. His delegation was unconvinced by arguments opposing the adoption of a convention based on the draft articles. Such a convention would not conflict with any other treaty obligations that a State party might have, including obligations arising under the Rome Statute of the International Criminal Court. On the contrary, a convention would strengthen the Court's ability to fight impunity without imposing on non-parties to the Rome Statute any obligations towards the Court.

27. The definition of crimes against humanity set out in the draft articles closely followed the definition in the Rome Statute and reflected existing practice established over decades, including through the case law of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and domestic courts. At the same time, the draft articles did not prejudice the ability of national legislatures to broaden the definition in order to provide for wider protection. Moreover, the draft articles did not prejudice immunities under international law, as they did not go beyond what was provided for in other bilateral and multilateral instruments on the matter. Jordan therefore supported the adoption of a convention on crimes against humanity based on the draft articles, whether through the General Assembly or a diplomatic conference. To that end, it supported the establishment of an ad hoc committee to discuss the text and the procedure for adoption as soon as possible.

28. **Ms. Zakari-Awami** (Nigeria) said that crimes against humanity threatened peaceful coexistence and the security of persons and properties and must not go unpunished. All States had a duty to exercise their criminal jurisdiction over such crimes. Nigeria called on Member States to take appropriate action to prevent and address atrocities, especially those committed against minorities and underrepresented populations, and to consider the recommendation to elaborate a convention based on the draft articles on prevention and punishment of crimes against humanity. A convention would provide a firm legal framework for the promotion of accountability at the national level. Her delegation supported an open and inclusive dialogue with a view to reaching consensus on the matter.

29. With respect to draft article 12, Nigeria supported a comprehensive approach by States to ensure equal access to competent authorities and to protect all victims and witnesses from ill-treatment or intimidation. Nigeria also welcomed the promotion of mutual legal assistance under draft article 14, which would afford

States, under relevant laws and treaties, access to investigations, prosecutions and judicial and other proceedings.

30. **Ms. Langerholc** (Slovenia) said that the work of the International Law Commission on the draft articles on prevention and punishment of crimes against humanity had resulted in a text that could serve as a basis for a convention, thereby contributing to the progressive development of international law. Slovenia supported the elaboration of such a convention by the General Assembly or by an international conference of plenipotentiaries. Work on the convention should be undertaken as soon as possible; there should be no further delay in pursuing global efforts to strengthen the legal framework for the prosecution of perpetrators of one of the most serious international crimes.

31. Her delegation also wished to recall the mutual legal assistance initiative launched by Argentina, Belgium, Mongolia, the Netherlands, Senegal and Slovenia and currently supported by 76 States. That initiative and the draft articles both pursued the objective of fighting impunity for the most serious crimes. However, they differed broadly in material scope and general approach. Whereas the draft articles were aimed at addressing a wide range of rules and concepts relating solely to crimes against humanity, the mutual legal assistance initiative was aimed at developing a modern operational framework for ensuring effective inter-State cooperation for prosecution at the national level of crimes of genocide, crimes against humanity and war crimes. The two projects were therefore complementary and could continue to develop in parallel.

32. **Mr. Videche Guevara** (Costa Rica) said that, for the third consecutive year, his Government wished to express its support for the draft articles on prevention and punishment of crimes against humanity and for the recommendation that they form the basis of an international convention. One of the main functions of the Commission was to draft conventions on topics, such as crimes against humanity, that had not yet been regulated by international law or for which States had not yet implemented sufficiently developed rules. The Committee should seek to facilitate, not obstruct, the fulfilment of that function.

33. The draft articles were the result of five years of hard work by the Commission, involving Governments, international organizations and non-governmental organizations. That work should not be allowed to go to waste. The draft articles were intended to fill a gap in international law, in that there were international conventions on genocide and war crimes but not on

crimes against humanity. Over the three years of debate, it had become clear that there was consensus on the importance of preventing and punishing crimes against humanity, although some delegations had said that a convention could not yet be negotiated because concerns remained about certain aspects of the draft articles. However, outstanding issues could be addressed through a transparent and inclusive negotiation process in the context of a diplomatic or intergovernmental conference. Costa Rica would support either option.

34. A convention based on the draft articles would be complementary to the Rome Statute of the International Criminal Court because, while the Statute established international criminal jurisdiction over individuals, the draft articles focused on inter-State cooperation and national accountability mechanisms. It was important for all States, including those that had not yet ratified the Rome Statute, to have an international legal instrument that would serve to prevent and punish crimes against humanity and strengthen procedures at the national level. Costa Rica shared the view that crimes against humanity must be criminalized in each State's domestic law so as to facilitate the prosecution of suspects at the national level. States should be obliged to carry out prompt, exhaustive and impartial investigations when there were reasonable grounds to believe that crimes against humanity had been committed or were being committed in any territory under their jurisdiction.

35. International cooperation among States and cooperation with international organizations and United Nations mechanisms were important in order to prevent and punish crimes against humanity. Legal assistance was vital, particularly in the case of fugitives from justice. Costa Rica therefore supported the initiative to draw up a new convention on international cooperation in the investigation and prosecution of the crime of genocide, crimes against humanity and war crimes. Such a convention would be complementary to a convention based on the draft articles on prevention and punishment of crimes against humanity.

36. **Mr. Marschik** (Austria) said that Austria was firmly committed to the fight against impunity for the most serious international crimes and supported the conclusion of an international convention on the basis of the draft articles on prevention and punishment of crimes against humanity. A convention codifying existing customary international law on the criminalization of widespread or systematic attacks directed against civilian populations was long overdue. Such a convention would complement the Convention on the Prevention and Punishment of the Crime of

Genocide of 1948 and the Geneva Conventions of 1949. It would also provide new impetus for the criminalization of crimes against humanity at the national level and improve international cooperation in the prosecution of perpetrators of such crimes. The international community owed it to the victims of crimes against humanity to step up efforts in that regard.

37. In order to live up to its purpose and ensure an ongoing fruitful relationship with the Commission, the Committee must conduct meaningful and outcome-oriented discussions on the Commission's work and ensure appropriate follow-up. Progress in the Committee on the topic of crimes against humanity would advance the prevention and punishment of atrocity crimes and contribute to the rule of law. Over the previous two years, many delegations had voiced support for a convention, while others had called for further discussion. Those discussions had taken place, and it was now time to take the next steps. Member States should set up a structured process for consultation on and consideration of the draft articles and then strive to find common ground, which would take considerable time. An ad hoc committee would be a suitable forum to consolidate areas of agreement and discuss open issues in a constructive, efficient manner on an expert level. However, there should be a clear timeline for the work of the ad hoc committee and for the further consideration of the topic by the Committee.

38. **Ms. Dime Labille** (France) said that crimes against humanity were atrocious crimes for which the perpetrators must be held accountable. However, unlike the crimes of genocide and war crimes, such crimes were not the subject of an international convention. Her delegation fully supported the adoption of a convention based on the draft articles on prevention and punishment of crimes against humanity, adopted by the International Law Commission which would strengthen the international legal framework for combating the most serious crimes. Her delegation regretted the lack of substantive negotiations on the topic during the previous session, owing to the circumstances surrounding the coronavirus disease (COVID-19) pandemic. It was time to make concrete progress on the matter during the current session. Delegations should determine collectively how they wished to take ownership of the high-quality work produced by the Commission. Her delegation stood ready to engage in the broadest and most transparent possible dialogue and continued to advocate for the universal adoption of a convention on the prevention and punishment of crimes against humanity.

39. **Mr. Moon Dong Kyu** (Republic of Korea) said that no one could deny the need to enhance

accountability and end impunity for crimes against humanity, which were among the most serious crimes of concern to the international community as a whole. There was therefore no reason to delay discussions aimed at establishing a legal framework against such crimes. The elaboration of a convention on the basis of the draft articles on prevention and punishment of crimes against humanity, either by the General Assembly or by an international conference of plenipotentiaries, would strengthen the rule of law at both the national and the international levels.

40. As there were differing opinions on the draft articles and on the way forward, his delegation supported further discussion through a mechanism such as an ad hoc committee or a working group, if such a mechanism could contribute to the elaboration of the convention. In order to avoid the deadlock that the international community, and the Committee itself, had witnessed in the past, there should be clear guidance on the way forward, with a specific timeline. In the discussions on a convention, it would also be important to ensure coherence with existing legal instruments, such as the Rome Statute of the International Criminal Court, and to provide sufficient opportunity for States to communicate with other States in order to fully understand the different views on the draft articles and to ensure procedural legitimacy. There should not, however, be endless debate. His delegation stood ready to engage in the discussions in a constructive and sincere manner.

41. **Mr. Milano** (Italy) said that his country had been and remained at the forefront of international efforts to promote the rule of law and full accountability for the most heinous crimes, and strongly supported the role of the International Law Commission in promoting the codification and progressive development of international law. His Government supported the recommendation to transform the draft articles on prevention and punishment of crimes against humanity into a legally binding international instrument. The draft articles addressed a concern of the international community as a whole, namely the need to end impunity and ensure justice and accountability for the most heinous crimes. They were comprehensive and prescriptive in nature; were generally reflective of State practice and existing customary international law; and addressed an important normative gap, that of horizontal judicial cooperation for the prosecution of crimes against humanity.

42. His delegation saw a universal convention on judicial cooperation with regard to crimes against humanity as a tool to reinforce both the primary responsibility of States in prosecuting and punishing

those responsible for such crimes and the principle of complementarity in international criminal law. However, while Italy supported the goal of universal participation in a future instrument and fully respected the *pacta tertiis* principle, it insisted that such a convention should include a general formulation aimed at avoiding any risk of conflicting obligations for States parties to the Rome Statute. Italy appreciated the inclusion in the draft articles of rules guaranteeing that any criminal prosecution on crimes against humanity, notwithstanding their particularly heinous character, would be conducted in compliance with the principles of due process and fair trial, and with international human rights law and international humanitarian law.

43. His delegation stood ready to contribute to the advancement of a process leading to an international conference for the adoption of a convention on the prevention and punishment of crimes against humanity. At the same time, it wished to highlight the need for full coordination between any negotiations on a convention based on the draft articles and any parallel initiatives promoting horizontal judicial cooperation on the prosecution of international crimes in order to avoid inconsistencies that would complicate the task of national lawmakers when incorporating international instruments into their domestic legal order.

44. **Mr. Santos Maraver** (Spain) said that Spain supported efforts to draw up a convention based on the draft articles on prevention and punishment of crimes against humanity. Together with genocide and war crimes, crimes against humanity represented a systemic and widespread attack on international law and civilization itself. The international community could not remain indifferent to them. However, while genocide and war crimes were specifically regulated by international conventions, crimes against humanity were not. A convention based on the draft articles would thus fill a legal gap and would also serve to strengthen the commitment of all States to prevent and punish crimes against humanity. To that end, the future convention must embody the principles of consensus and universality, and the path taken to its final adoption must be as robust, inclusive and consensus-building as the intended outcome.

45. Spain was particularly interested in the potential beneficial effects of the interaction of a future convention with other instruments on criminal responsibility for the most serious violations of international humanitarian law and international human rights law, in particular with regard to promoting investigations, prosecutions and, where appropriate, convictions at the national level and providing a basis for strengthening inter-State judicial cooperation at the

international level. His delegation invited all States to persist in the quest for an appropriate and inclusive process, within a broad participatory forum, for examining the draft articles in depth and with due care. Such a process should be seen as an opportunity to strengthen the relationship between the International Law Commission and the Committee and to renew dialogue between the two bodies involved in the progressive development and codification of international law as part of the important task of working towards a treaty to accompany the international instruments that regulated the prevention and punishment of genocide and war crimes.

46. **Ms. Egmond** (Netherlands) said that, although crimes against humanity were among the most categorically prohibited crimes under international law and their prevention and punishment was of concern to the international community as a whole, civilian populations continued to be victims of such atrocities and perpetrators continued to act with impunity. Two years earlier, the International Law Commission had delivered a well-founded set of draft articles on prevention and punishment of crimes against humanity, which would fill a gap in the international legal framework for the prevention and punishment of the worst international crimes. A convention based on the draft articles would strengthen the international criminal justice system and contribute to the strengthening of domestic laws and criminal jurisdiction in the fight against impunity for crimes against humanity.

47. Her delegation would therefore welcome the opening of treaty negotiations. At the same time, it understood that some delegations desired further scrutiny of certain elements of the draft articles. An ad hoc committee would offer an ideal forum for further examination of the draft articles with a view to making concrete progress towards the opening of treaty negotiations. It was essential for such a committee to have a clear mandate and a clear timeline for the completion of its work.

48. The mutual legal assistance initiative aimed at developing a modern operational framework for effective inter-State cooperation for the prosecution of crimes of genocide, crimes against humanity and war crimes. While the initiative and the draft articles shared a similar objective of fighting impunity for the most serious crimes, they differed broadly in material scope and general approach. Nonetheless, the two projects were complementary and could continue to be pursued in parallel.

49. **Mr. Sakowicz** (Poland) said that his country supported the elaboration of a convention on the basis

of the draft articles on prevention and punishment of crimes against humanity, preferably by an international conference of plenipotentiaries. Such a convention was urgently needed to address a gap in international criminal law, and the draft articles constituted a good starting point for its development. They addressed the need to adopt national laws and establish national jurisdiction for such crimes and provided for inter-State cooperation to punish them. In preparing the draft articles, the International Law Commission had relied extensively on provisions that most States had already embraced in widely accepted treaties, such as the 1984 Convention against Torture and the 2003 Convention against Corruption. States that were ready to accept those treaties should find all the more reason to support a convention on preventing and combating the widespread or systematic murder of civilian populations. Moreover, the draft articles were not in any way dependent or contingent on the Rome Statute, and the position of certain States with respect to the International Criminal Court should therefore not be affected by, or influence, future work on the draft articles.

50. **Mr. Panier** (Haiti) said that crimes against humanity, including enslavement, were the most serious crimes and their prevention and punishment remained an absolute necessity. His delegation welcomed the draft articles on prevention and punishment of crimes against humanity and fully supported the elaboration of a convention based thereon. Such a convention would fill an important gap in international law.

51. The issue of enslavement, which was identified as a crime against humanity in both the Rome Statute of the International Criminal Court and the draft articles, remained fundamental for Haiti. The system of slavery was rooted in the racist and criminal ideologies spread by Enlightenment philosophers who had proclaimed the superiority of the white race. That retrograde idea had formed the basis for the legitimization of slavery as a sacred institution which had even received the blessings of the Catholic Church. Indeed, the Code Noir, which had made slaves to be treated as chattel, had persisted in the French legal landscape for more than two centuries.

52. The noble ideas of liberty, equality and fraternity, first enshrined in the Constitution of the United States of America in 1787 and then in the Declaration of the Rights of Man and of the Citizen of France in 1789 had not been applied in practice until the Haitian Revolution of 1804, the only revolution in the world that had been at once anti-segregationist, anti-slavery and anti-colonial. The Haitian Revolution had marked the starting point for the struggle that was still being discussed today, more than two hundred years later. Indeed, for decades

after the independence of Haiti, slavery had still been considered a sacred institution by certain colonial powers, notably France and the United States. The emergence of Haiti as the first independent black republic in 1804 had put an end to a centuries-old system of exploitation based on race and racial discrimination. Unfortunately, it had also led to the poverty that currently prevailed in the country.

53. His delegation called for restorative justice for the victims of slavery. It noted with satisfaction the progress made towards the codification of crimes against humanity in the previous two decades. The adoption of the Durban Declaration and Programme of Action in 2001, and the commemoration of its twentieth anniversary in 2021, with the theme “Reparations, racial justice and equality for people of African descent”, were encouraging signs. The adoption by the French Parliament of the Taubira Act, recognizing the transatlantic slave trade and slavery as a crime against humanity, was also a welcome development. Nevertheless, crimes against humanity, including enslavement, could not be properly addressed without holding the perpetrators of such cruelties accountable. There was no statute of limitations for such crimes. Descendants of slaves were still suffering from the legacy of systemic racism linked to colonialism, and reparation and compensation for the victims of enslavement were an absolute necessity.

54. Seventy-five years since the Nuremberg trials, there was still no multilateral treaty dealing specifically with crimes against humanity, leaving a major gap in the international legal system. The draft articles on prevention and punishment of crimes against humanity were a significant step towards the codification of law governing those crimes.

55. **Mr. Taufan** (Indonesia) said that the global effort to prevent and punish crimes against humanity, which were among the most serious crimes of concern to the international community, was critical. Ending impunity and denying safe haven to individuals who committed such crimes was a collective responsibility of States. The importance of consensus in responding to the recommendation of the International Law Commission regarding the draft articles on prevention and punishment of crimes against humanity could not be emphasized enough. His delegation recognized that Member States continued to hold divergent positions, particularly on the way forward, and strongly supported further consultations within the Committee to deepen understanding and bring States closer to consensus.

56. Indonesia was pleased to see the inclusion of provisions regarding criminalization of crimes against

humanity under national law and the establishment of national jurisdiction over such crimes in draft articles 6 and 7, respectively. His delegation concurred with the view that there was a need to clarify the scope of draft article 7, paragraph 2, which should not require States parties to establish jurisdiction over or surrender any alleged offender if that offender was a national of a non-State party, nor should any obligation be imposed on States parties in respect of arrest warrants issued by a hybrid or permanent judicial mechanism where the State party in question was not a party to the founding instrument of the mechanism. With regard to draft article 10, his delegation believed that the establishment of jurisdiction was inherently a matter of jurisdictional prerogative. In executing the undertakings of draft article 7, paragraph 2, States would establish jurisdiction in accordance with their laws. Draft article 10 was declaratory and did not necessarily expand, impose or create any new obligation with respect to the *aut dedere aut judicare* principle, nor did it supplant the State’s jurisdictional prerogative.

57. Indonesia had promulgated Law No. 26 of 2000 on the Human Rights Court, which gave the Court jurisdiction over cases involving crimes against humanity, including such crimes committed by Indonesians living abroad. Crimes against humanity were defined in the law as any actions perpetrated as part of a broad or systematic direct attack on civilians and included 11 acts comparable to those listed in the definition contained in the draft articles. The law also included provisions on the protection of witnesses and victims of crimes against humanity, as well as compensation, restitution and rehabilitation. To complement the national legal infrastructure, Indonesia also stressed the importance of cooperation among States. It had concluded and would further cooperate on legal frameworks with other States to deny safe haven and impunity through mutual legal assistance in criminal matters and extradition.

58. **Mr. Diakite** (Senegal) said that crimes against humanity represented the worst denial of basic human rights and were most often committed as part of a large-scale attack on civilian populations, resulting in murder, torture, sexual violence and other crimes. As the first country in the world to sign and ratify the Rome Statute of the International Criminal Court, Senegal attached great importance to the fight against impunity for perpetrators of mass atrocities and unreservedly supported the idea of discussing the establishment of an effective international legal framework for the prevention and punishment of crimes against humanity. His delegation called upon all Member States to engage in a truly inclusive, open and transparent debate with a

view to removing all major obstacles to the elaboration of a convention on the basis of the International Law Commission's draft articles on prevention and punishment of crimes against humanity.

59. Senegal had long been committed to effectively combating the most serious international crimes and therefore supported the initiative of the group of countries advocating the adoption of a multilateral treaty on mutual legal assistance and extradition to assist in the domestic prosecution of such crimes. The international community was called upon more than ever to put an end to the commission of heinous crimes. His delegation urged the United Nations to place greater emphasis on awareness-raising and capacity-building of Member States and thanked the Organization for its efforts to detect and prevent mass atrocities.

60. His delegation recalled the role of the International Criminal Court in the fight against impunity, urged the universal adoption of the Rome Statute and reiterated its support for all mechanisms for the peaceful settlement of conflicts. Similarly, it commended the work of the International Court of Justice and reaffirmed its commitment to the peaceful settlement of inter-State disputes that might lead to a breach of international peace and security. Senegal called on all Member States to renounce the use of armed force and engage in dialogue for a safe and harmonious world.

61. **Mr. Kihwaga** (Kenya) said that, in continuing the efforts aimed at reaching agreement on the final outcome of the work of the International Law Commission on the topic of crimes against humanity, the Committee's collective endeavour should be guided by a desire to reach consensus on the basis of transparency and flexibility. Success would be assured if full account was taken of the wide spectrum of views expressed by delegations.

62. States had adopted several instruments covering the wider subject of criminal accountability, including the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions and their Additional Protocols and the instruments covering torture, corruption and transnational organized crime. There was, however, no treaty covering the prevention and punishment of crimes against humanity. The purpose of the International Law Commission's draft articles had been to close that normative gap. His delegation hoped that the Committee would seize the opportunity to act with a view to reaching consensus on adopting the Commission's recommendation. Such an outcome would not only assist States in developing and strengthening their national capacities, but would also provide them with a mechanism for inter-State

cooperation. It would also be in line with the notion that States had the primary responsibility to prevent, investigate and prosecute crimes.

63. **Ms. Barba Bustos** (Ecuador) said that her delegation believed that the development of international law was necessary to fill existing legal gaps and therefore welcomed the draft articles on prevention and punishment of crimes against humanity. It noted the important work of the International Law Commission in defining crimes against humanity and setting out the obligations of States with regard to prevention, non-refoulement, criminalization of crimes against humanity under national law, establishment of national jurisdiction over such crimes, investigation, prosecution or extradition of alleged perpetrators, treatment of victims and witnesses, extradition, settlement of disputes and procedures for mutual legal assistance. The Constitution of Ecuador established penalties for crimes against humanity and such crimes constituted offences under the country's Criminal Code.

64. Her delegation believed that an international instrument would help to fill gaps and reinforce existing procedures at the national level and would represent a significant advance in international law. It therefore supported in-depth discussion of the draft articles and welcomed the recommendation for the elaboration of a convention based thereon, either by the General Assembly or an international conference of plenipotentiaries.

65. **Ms. Cerrato** (Honduras) said that all human rights treaties had supra-legal status under the Constitution of Honduras and that the national legal system provided for a broad charter of constitutional rights that encompassed rights under international human rights law, international criminal law and international humanitarian law and recognized the jurisdiction of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights at the regional level and the International Criminal Court at the global level. In addition, Honduras recognized the principle of universal justice for serious human rights violations such as genocide, crimes against humanity, torture, war crimes, human trafficking, sexual exploitation and enforced disappearance. Honduras therefore welcomed the draft articles on prevention and punishment of crimes against humanity and joined the long list of Member States that supported the elaboration by the General Assembly or an international conference of plenipotentiaries of a convention on the basis of the draft articles. In order to achieve tangible progress in the Committee, her delegation urged other friendly countries to take action with a view to discussing the draft articles at the intergovernmental level.

66. **Ms. Ozgul Bilman** (Turkey) said that genocide, crimes against humanity, war crimes and terrorism posed existential threats and that preventing such crimes and punishing those who committed them, through a combination of national, regional and international efforts, including inter-State cooperation, remained a shared goal. Under the Turkish Penal Code, crimes against humanity were among the crimes to which Turkish law applied irrespective of the nationality of the perpetrator or where the crime was committed, albeit subject to strict conditions.

67. The definition and components of crimes against humanity were complex. Such crimes, compared with certain other categories of international crimes, were more susceptible to political exploitation, and addressing the rules concerning their prevention and punishment therefore required special care. Her delegation wished to underline the importance it attached to non-politicization and to ensuring and preserving the integrity of international law, especially where issues relating to serious international crimes were concerned. Her delegation had consistently highlighted the need to address the topic of crimes against humanity in a diligent and inclusive manner and at a reasonable pace that would enable the international community to move forward in unison towards its shared goal. To facilitate discussion on the substance of the draft articles on prevention and punishment of crimes against humanity, her delegation was of the view that Member States should be invited to submit written comments and that the Committee should carry out a meaningful and structured exchange of views, without prejudice to the outcome of such discussions.

68. **Mr. Musayev** (Azerbaijan) said that crimes against humanity were particularly odious offences. The same acts might constitute both war crimes and crimes against humanity, but the latter did not necessarily take place during an armed conflict. To constitute crimes against humanity, the acts in question had to be committed against a civilian population as part of a widespread or systematic activity. Under international law, States were required to investigate, without undue delay, reports of such offences and to prosecute and punish the perpetrators. While Governments bore the primary responsibility for ensuring accountability for such offences, when they failed to take action, the international community should play a more proactive role, in accordance with applicable international law. While international norms and standards for the prevention and punishment of wrongdoing had developed significantly, efforts to translate them into practical action had not always been consistent,

successful or free of selectivity and politically motivated objectives.

69. Azerbaijan had suffered from multiple atrocity crimes committed against its people and attached paramount importance to the fight against impunity. His delegation noted that some Member States supported the elaboration of a convention based on the draft articles on prevention and punishment of crimes against humanity, while others held the view that the draft articles did not reflect established State practice and that further clarification on some key elements of the draft articles was needed. The primary objective of developing normative standards in the field of criminal justice must be the strengthening of international criminal law to ensure effective accountability, inter-State cooperation and legal assistance. That objective could be achieved by overcoming, or at least lessening, divergent views through inclusive and transparent deliberations aimed at achieving the broadest possible consensus.

70. **Ms. Falconi** (Peru) said that, in a world in which millions of people had been victims of crimes against humanity, her Government considered it essential to draft a convention to complement the existing legal framework provided by, for example, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions and their Additional Protocols, the Rome Statute of the International Criminal Court and the International Convention for the Protection of All Persons from Enforced Disappearance. Bearing in mind that the prohibition of crimes against humanity was a peremptory norm of general international law (*jus cogens*), and that such crimes were among the most serious crimes of concern to the international community as a whole, it was particularly appropriate to highlight the need to prevent them and to put an end to the impunity of the perpetrators.

71. The International Law Commission's draft articles on prevention and punishment of crimes against humanity provided for both prevention, through legislative, administrative, judicial and other appropriate measures and cooperation with other States, and effective punishment, thus covering the two dimensions that should be addressed by a future convention on the subject. The Commission made it clear in the draft articles that crimes against humanity were committed both in wartime and in peacetime. It also took account of the rights of victims, including the right to reparations and guarantees of non-repetition, the protection of witnesses and other persons involved in investigation and punishment processes and the right of alleged offenders to fair treatment.

72. Her delegation believed, however, that the draft articles could also include a gender perspective and a focus on vulnerable groups, as well as a prohibition of general amnesties in cases of crimes against humanity. Failure to include an express prohibition of such amnesties could lead to situations of impunity, which would constitute a flagrant contradiction of the very purpose of a convention based on the draft articles. In order to protect populations and ensure the punishment of those responsible for crimes against humanity, her delegation considered it necessary for the General Assembly to establish a preparatory process with a view to holding a diplomatic conference.

73. **Mr. Kuzmin** (Russian Federation), said that Member States continued to hold starkly different views regarding both the content and the future of the draft articles on prevention and punishment of crimes against humanity. There was no consensus about the definitions of the terms used therein, the provisions on the criminal responsibility of legal persons, and cooperation between States and mechanisms established to collect evidence of crimes against humanity. It therefore seemed unlikely that an international instrument could be developed based on the draft articles.

74. There was no gap in the current international legal framework. Instead of a new treaty, States needed the political will to make greater use of existing international mechanisms, such as the 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, and mutual legal assistance in criminal matters, including cooperation through the International Criminal Police Organization (INTERPOL), on the basis of reciprocity. While those mechanisms were sufficient and could be very effective, they were, unfortunately, often eschewed for political reasons.

75. It was his delegation's understanding that the principle of universal jurisdiction would be an important element of the hypothetical convention on prevention and punishment of crimes against humanity. Yet, to date, there was no consensus on the topic of universal jurisdiction. Indeed, it had been included in the Committee's agenda because of States' concerns over the potential for abuse of that principle to the detriment of basic norms of international law, including norms related to immunities of senior State officials, which served as safeguards for the principles of the sovereign equality of States and non-interference in their internal affairs. Furthermore, the draft articles had been based to a great extent on the Rome Statute of the International Criminal Court. His delegation's reservations with regard to that body were well known.

76. Although some delegations believed that a convention based on the draft articles should be drafted without delay, his delegation warned that overly enthusiastic attempts to develop a new international instrument could result in a text that, from the outset, did not enjoy consensus. A lack of universal support for an instrument aimed at codifying widely accepted principles and norms of international law would undermine those principles and norms, reducing them to treaty obligations applicable only to a limited number of States. The Committee should therefore endeavour to achieve a consensus on general matters before discussing a convention.

Agenda item 88: Strengthening and promoting the international treaty framework (A/75/136)

77. **Ms. Laukannen** (Finland), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that well-functioning and easily accessible registration and publication of treaties were important elements of the international treaty framework that helped to promote transparency in international law. The Nordic countries welcomed the amendments made in 2018 to the regulations giving effect to Article 102 of the Charter of the United Nations, which had helped to simplify the treaty registration and publication process and had adapted the regulations to new developments in registration practice. The Nordic countries remained open to considering the possible options for review of the regulations, as identified in the report of the Secretary-General (A/75/136), in particular greater use of modern electronic methods in the registration and publication process, and would welcome further discussions on an online treaty registration system.

78. Multilingualism was a core value of the Organization that contributed to the achievement of its goals. Although the requirement to translate published treaties into English and French imposed a burden on the Secretariat, the Nordic countries were of the opinion that it was important to maintain that requirement to ensure the accessibility of treaties and promote transparency in international law. Shifting the translation requirement entirely to States should be avoided, as such a requirement could discourage States from registering treaties. The Nordic countries were open to considering other proposals for streamlining the treaty translation and publication process.

79. **Mr. Khng** (Singapore), speaking also on behalf of Argentina, Austria, Brazil and Italy, said that a strong international treaty framework provided critical support for the rules-based multilateral system founded upon international law. The regime for treaty registration and

publication was an important element of that framework. The current item had been added to the agenda of the General Assembly with a view to conducting a long-overdue review of the regulations giving effect to Article 102 of the Charter, providing an opportunity for Member States to consider how shortcomings in treaty registration could be addressed, promoting an exchange of views on treaty-making practice and identifying trends and sharing best practices in treaty-making.

80. The Committee's work on the item in the previous two sessions had produced tangible, substantive and practical results, including the achievement of consensus on amendments to bring the regulations into line with the latest developments in information technology and treaty registration practice and on the development of an online treaty registration system. In his report (A/75/136), the Secretary-General identified various areas where further reform of the regulations might be possible, and a number of proposals had already been put forward. The delegations of Argentina, Austria, Brazil, Italy and Singapore stood ready to engage in a constructive discussion of those proposals.

81. Once the review of the regulations had been completed, the Committee should turn its attention to current shortcomings in treaty registration and to developments in treaty-making practice. The pandemic and other recent geopolitical developments had been a catalyst for many new and innovative practices in treaty-making, and there were many other issues that might usefully be examined. His delegation wished to thank the staff of the Treaty Section for their hard work in overseeing the implementation of Article 102 of the Charter; their efforts supported transparency in international relations and legal certainty in international law and, ultimately, contributed to the upholding of the rule of law at the international level.

82. **Mr. Asiabi Pourimani** (Islamic Republic of Iran) said that the important work of the Treaty Section facilitated treaty registration and contributed to the dissemination of international law and the strengthening of the international legal order. His delegation stood ready to discuss potential methods and means of strengthening the effectiveness of the Treaty Section, including on the basis of suggestions by Member States as outlined in the report of the Secretary-General (A/75/136).

83. In his Government's view, treaty registration in accordance with Article 102 of the Charter did not give any legal value or status to the content of the registered instruments or their effectiveness. As the depositary of a number of multilateral treaties, the Islamic Republic

of Iran welcomed the recognition of the role of depositaries other than the United Nations.

84. In his report, the Secretary-General noted geographical disparities in treaty registration trends, patterns and numbers. Those disparities could be attributed to the limited awareness of the obligation to register as well as a lack of resources for the submission of treaties for registration. It was therefore vitally important to modify and update the existing regulations in order to make registration easier, more efficient, less bureaucratic, less costly and more accessible to Member States. It was also important to consider additional measures, such as capacity-building and the provision of technical assistance, in particular the organization of workshops on treaty law and practice at the national and regional levels.

85. His delegation welcomed any functional proposal aimed at providing the Secretariat with additional tools to help reduce the time and costs involved in registering and publishing treaties, provided they did not hinder timely and widespread access by users to registered instruments. It was open to considering amendments to the regulations giving effect to Article 102 of the Charter in order to reflect developments in information technology and treaty registration practice. It also supported the regular review of the regulations, provided that the functioning of the Treaty Section was thereby facilitated, not impaired. Lastly, recognizing that multilingualism was a core value of the United Nations, his delegation wished to affirm the importance of ensuring that treaties in the United Nations *Treaty Series* were available in English and French, the working languages of both the Secretariat and the International Court of Justice.

86. **Mr. Abdelaziz** (Egypt) said that any innovative ideas to improve the registration of treaties were welcome, including the use of electronic submissions to expedite registration and respond to the challenges caused by the COVID-19 pandemic and the proposals to tackle the extended backlog in registration and publication and to promote multilingualism. The Secretary-General's report (A/75/136) had exposed an unfortunate geographical imbalance in treaty registration, an area where developing countries continued to lag behind. It was important for the Secretariat to increase its capacity-building activities, including through more national and regional workshops and training programmes, with the aim of increasing the rate of treaty registration by developing countries. His delegation therefore attached special importance to updating the regulations annexed to General Assembly resolution 73/210 and stood ready to

work constructively with all delegations on the proposals presented.

87. **Ms. Arumpac-Marte** (Philippines) said that treaty registration and publication promoted public awareness of and interest in treaty-making, removed causes of distrust and conflict and contributed to the formation of a clear and indisputable system of international law. The Philippines had a policy and a tradition of making treaties accessible to the people, first through the *Philippine Treaty Series*, a collection of the texts of treaties and other international agreements to which the Philippines was a party, and more recently through the book *Philippine Treaties in Force 2020*, an index of some 3,367 subsisting agreements entered into by the Philippines since 1946. The Philippine Supreme Court also had an online database containing treaties to which the Philippines was a party.

88. Her delegation noted the challenges relating to the registration and publication of treaties, in particular the geographical imbalance in treaty registration. It welcomed any amendments to the regulations that might address that imbalance and facilitate and simplify the registration process through wider use of digital and electronic means. The registration and subsequent publication of valid treaties provided a sense of the actual practice of States, fostered a better understanding of accepted norms in international law and encouraged fulfilment of the obligations accepted by States under legally binding international agreements. The discussions on the regulations, however, should not hinder the Committee from looking at the broader issue of strengthening the treaty framework in a way that would benefit all Member States. If the discussions remained confined to a few States representing geographic groups that had historically had higher treaty registration rates, the Committee might be missing the point of the review.

89. Her delegation hoped that, in the future, there would be a more robust exchange of views on treaty-making practice. It supported the approach of addressing the current challenges in treaty registration through capacity-building, publications, and technical assistance. The regular organization, by the Treaties Section, possibly in partnership with interested States, of workshops on treaty law and practice would be a step forward in building and sustaining a strong base for the implementation of Article 102 and forging a “culture of registration”.

90. **Ms. Șiman** (Republic of Moldova) said that in order to offer more clarity in the process of registration and publication of treaties and international agreements, the regulations set out in the annex to General Assembly

resolution 73/210 should answer three main questions: what was being registered, who was registering the instrument in question and how the instrument was being registered. With regard to the first question, her delegation supported the amendment proposed by a State to address the issue of registration of treaties provisionally applied in accordance with article 25 of the Vienna Convention on the Law of Treaties. It agreed that, if provisions in a treaty invoked other agreements that formed a part of the treaty and were essential for the application and implementation of the treaty, the registration of the newer treaty should be deferred until the previous treaty had been registered.

91. Regarding the second question, the regulations should clarify which party should register a treaty in the case of bilateral agreements, agreements in which a depositary was designated and agreements in which multiple depositaries were designated. If the matter was to be resolved by mutual agreement of the parties, wording to that effect should be included in article 1 of the regulations. To bring greater coherence to the process of registering a multilateral treaty in which a depositary was designated, article 1, paragraph 3, particularly as it related to article 5, should be clarified.

92. With respect to the third question, her delegation supported the proposal by Spain to request States to submit, on a voluntary basis, a courtesy translation in one of the six official languages of the United Nations in order to facilitate the translation process within the Secretariat and enhance access to treaties. Treaties should continue to be published in English and French, as stipulated in articles 8 and 12 of the regulations.

93. **Ms. Solano Ramirez** (Colombia), commending the work of the Treaty Section and acknowledging the challenges it faced, said that some aspects of the regulations for the implementation of Article 102 of the Charter still needed to be reviewed, updated and improved, in order to facilitate the depositary functions of the United Nations and to expedite the registration and publication of treaties in all the official languages of the Organization. Colombia welcomed the various proposals received with regard to the substantive conditions for registration, the deposit of provisionally applied treaties, the role of depositaries other than the United Nations, the translation of treaties and the policy of limited publication, among other matters. As a general rule, it supported any proposal that was compatible with the Vienna Convention on the Law of Treaties, that reflected the need to preserve multilingualism within the Organization and that aimed to make the registration and publication of treaties more efficient.

94. Her delegation invited other delegations to support the proposal put forward by 18 Spanish-speaking States in relation to articles 5 and 13 of the regulations. The objective of the proposal was to allow the submission of courtesy translations in any of the six official languages of the Organization in order to expedite the publication of treaties. Colombia welcomed the proposal submitted by Mexico in relation to article 1, paragraph 2, on provisionally applied treaties, the proposal by Peru in relation to article 1, paragraph 3, on situations in which there was more than one depositary, and the proposal by Switzerland on the registration of treaties that referred to older treaties that had not yet been registered. Any proposal that would enable the Treaty Section to work more efficiently would free up resources that might be used to address other issues.

The meeting rose at 1 p.m.