Mr. Chairman,

It gives me great pleasure to see you presiding over our deliberations, and to have the privilege of addressing the Sixth Committee on the subject of the International Criminal Court. I have listened intently to the debate thus far and am most impressed with the tone of the interventions made and the degree of support for what was accomplished in Rome. I wish to thank all those delegations for the kind words addressed to me and the Canadian delegation for our role in Rome. I am touched by your comments.

What was achieved in Rome on July 17 was truly an historic event - the creation of a Statute that had been an elusive goal for over 50 years. It was the result of the combined efforts of all delegations and reflected the overwhelming determination of the international community to address, once and for all, impunity and to provide hope to millions of people trapped in cycles of violence.

Many people were responsible for our success in Rome and time does not permit me to name them all. I would be remiss, however, if I did not express my sincere thanks to the Government of Italy for their hosting of the Diplomatic Conference and for all their assistance to me in my role as the Chairman of the Committee of the Whole. I wish to thank Professor Giovanni Conso, President of the Conference, for the guidance and assistance he provided me throughout.

I am deeply indebted to the members of the Bureau of the Committee of the Whole and to the coordinators who chaired countless consultations to prepare various parts of the Statute. I am very appreciative of the role played by the Secretary-General, both in lending his considerable moral authority to our endeavour and in providing the indispensable support of an outstanding team from the Secretariat. Hans Corell, The Legal Counsel, Roy Lee, Mahnoush Arsanjani, Manuel Rama-Montaldo and Christiane Bourloyannis-Vrailas are but a few of the Secretariat staff who rendered tireless and uncomplaining service. Professor Cherif Bassiouni did an outstanding job in leading the Drafting Committee. And last but not least, my gratitude goes to Adriaan Bos of the Netherlands for the seminal role that he played in the development of the text that went to Rome.

Mr. Chairman,

The International Criminal Court will have a profound effect on the lives of ordinary people. A clarion call has gone out to potential perpetrators of unspeakable atrocities, that the world is not going to stand by silently and watch the commission of outrageous violations of international law, such as genocide, war crimes and crimes against humanity. The world has decided that “enough is enough”.

The Court will give the world community a valuable means to respond to atrocities in international or internal armed conflicts. As a permanent institution, the Court will overcome the delays and other shortcomings inherent in an ad hoc approach. By helping to ensure that those responsible for the most serious crimes are brought to justice, the Court will serve as a significant deterrent. It will also help to isolate and stigmatize war criminals in post-conflict situations.

Canada strongly supports the framework for the Court which emerged in Rome this summer as it will give the Court the capacity to carry out its indispensable mandate.

The challenge in Rome was to create a balanced and credible Statute, broadly acceptable to the international community. In other words, a Statute with provisions strong enough to make the Court
meaningful, but also a Statute that is strong through the broad support it enjoyed from States.
Representatives of States, non-governmental organizations and international bodies went to Rome with high expectations. Inevitably, none left with all those expectations completely met. Nevertheless, the Statute is an outstanding example of what the international community can achieve when the political will exists and delegations work to find solutions to the many difficult issues inherent in an exercise of this nature.

I was truly impressed by the contributions to the elaboration of the Statute made by all delegations, large and small, including those which ultimately could not join the majority in approving the text.

The solutions found to complex issues, such as jurisdiction of the Court, complementarity, the role of the prosecutor and the definition of crimes, are remarkable. On these and other issues, the views of all delegations were heard and every State had an opportunity to influence the outcome of the negotiations. Some of the solutions developed, necessarily, could not accommodate the concerns of all delegations. Even those provisions that may not have been acceptable to all, however, clearly represented a balance between often very divergent positions.

Two issues merit particular mention: jurisdiction and complementarity. Many delegations in Rome favoured a wide jurisdictional basis for the Court. Ultimately, a different approach was necessary to secure broad acceptance of the Statute. The solution found, based on the territorial State or the State of nationality of the accused, is completely in keeping with international law and practice. In particular, it follows not only the approach adopted in many national criminal jurisdictions, but also the approach taken in other international legal instruments such as a number of conventions aimed at preventing and punishing terrorist acts and various treaties in other areas. In the past few years, several instruments employing this approach have been adopted by the UN General Assembly.

The Statute's codification of the principle of complementarity is also one of its fundamental strengths. It is my hope that the International Criminal Court will never have to exercise its jurisdiction.

Rather, States themselves will comply with existing obligations and punish those who commit heinous crimes. The Court, nevertheless, is necessary. Where States are incapable of acting or fail to do so genuinely in a manner aimed at bringing perpetrators to justice, the international community, through the Court, must act. Clearly, if the International Criminal Court had been precluded from taking up a case simply because a State had assumed jurisdiction, without any other qualification, perpetrators could easily have been shielded through sham investigations and trials. The Rome Statute produced a delicate balance, weighted heavily towards the right and responsibility of States to investigate and prosecute, but allowing the Court to assume jurisdiction in special cases to ensure that justice was served. The checks and balances we worked so hard on in Rome will permit the Court only to exercise jurisdiction in well defined circumstances.

Canada is very much aware that a few States remain hesitant about the Court. We believe that some concerns that have been expressed should be met by a careful reading of the provisions of the Statute and that States will be reassured once the Court begins its operations. Nevertheless, we must be open to dialogue and consultation on any legitimate concerns, in order to ensure that we have an institution which is both credible and responsible. In striving for solutions it is also important not to undermine the integrity of the Statute, nor dilute its effectiveness. The Court is not a threat to any State which is committed to the well-being of individuals. The Court will serve the objectives of such States by contributing to long-term international stability.

While the negotiation of the Statute was a significant step in the right direction, equally large steps remain.

Important details of the Court's operation still require work, for example the rules of procedure and evidence, the elements of crimes, the definition and elements of the crime of aggression, and instruments to facilitate the establishment of the Court in The Hague. On these latter items, the role of the government of the Netherlands, which generously offered to host the Court, will be important. To achieve these objectives, we must ensure that the General Assembly adopts a resolution establishing a Preparatory Commission with a clear and unequivocal mandate and which provides adequate support for the Commission to complete its tasks. We also believe that the resolution should be framed in a manner which allows for the discussion of any issues that are of concern to States, so as to build universal support for the Court.

Sixty ratifications are required to bring this Statute into force. Already, 58 States have signed the Rome Statute, an important achievement in itself given the complex nature of the instrument. Canada is currently taking the necessary steps which should lead to signature in the near future. The ultimate goal of all of us should be the entry into force of the Statute and, indeed, universal adherence. The PrepCom will play an
important role in achieving this objective. It will produce a clearer picture of the Court’s operations, thus helping to allay the concerns that States may have with respect to the Statute. It is Canada’s intention to do everything necessary to facilitate this result and I look forward to the active participation of the Canadian Delegation throughout the PrepCom.

Thank you Mr. Chairman.