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SUMMARY RECORD OF THE 8th MEETING

Chairman: Mr. GOERNER (German Democratic Republic)

CONTENTS

AGENDA ITEM 122: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS: REPORT OF THE SECRETARY-GENERAL (continued)

AGENDA ITEM 128: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES: REPORT OF THE SECRETARY-GENERAL

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

AGENDA ITEM 122: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS: REPORT OF THE SECRETARY-GENERAL (continued) (A/39/465)

1. Mr. SCHRICKE (France) recalled that France had participated from the very beginning in efforts undertaken in the field of humanitarian law, to which it attached particular importance. France was a party to the four Geneva Conventions of 1949 and was making every effort to ensure that those instruments were respected. He cited France's initiative in the field of chemical and bacteriological weapons in connection with General Assembly agenda item 64, which had been assigned to the First Committee for consideration.
2. On the initiative of Switzerland and of the International Committee of the Red Cross, a diplomatic conference had been held at Geneva from 1974 to 1977 which had adopted two additional protocols to the 1949 Conventions. The first of those was concerned with the protection of victims of international armed conflicts and the second with the protection of victims of non-international armed conflicts. At the time of the adoption of those protocols by consensus, the delegation of France had indicated that it did not consider itself bound by the consensus with respect to Protocol I and had explained its reasons for taking that position. Those reasons had not changed. The Protocol gave rise to considerable problems for France on account of its defence policies.
3. On the other hand, his delegation was pleased to announce that on 24 February 1984 France had acceded to Additional Protocol II, which had come into force on 24 August. He expressed the hope that the international community would constantly reaffirm its support of humanitarian law and that States would scrupulously respect their commitments in that area.
4. Mr. ČIČANOVIĆ (Yugoslavia) said that there was no need to emphasize the importance of the adoption of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (Protocol I) and the protection of victims of non-international armed conflicts (Protocol II). It was essential to afford universal protection by means of international legal documents, to the victims of both international armed conflicts and internal conflicts. The debate at the current session of the General Assembly confirmed that assessment.
5. The solutions contained in the Protocols had influenced numerous documents adopted in the field of humanitarian law and many States had incorporated them into their national legislation. It would be useful to review periodically the state of ratification and the observance of the provisions of the two Protocols.
6. Yugoslavia had signed and ratified the two Protocols Additional to the Geneva Conventions in 1979. On the occasion of depositing the instruments of ratification, the Government of Yugoslavia had stated that the provisions concerning occupation in the Additional Protocol relating to the protection of victims of international armed conflicts (Protocol I) would be implemented in

(Mr. Čičanović, Yugoslavia)

conformity with article 238 of the Constitution of Yugoslavia. His delegation called on States which had not yet done so to accede to the Protocols Additional to the Geneva Conventions of 1949 as soon as possible.

7. Mr. CEDE (Austria) said that it was encouraging to note that in the two-year period since the General Assembly had last considered the item currently before the Committee, the number of ratifications of and accessions to Protocols I and II had increased considerably. It was to be hoped that in the not-too-distant future the number of States parties to the Protocols would be equal to the number of States parties to the Geneva Conventions of 1949.

8. The Protocols contained a code of human behaviour in times of armed conflict designed primarily to protect the civilian population. The Additional Protocols took into account the evolution, the methods and the means of modern warfare and even the special characteristics of what was commonly called guerrilla warfare. It was regrettable that only a few States had recognized the competence of the international fact-finding commission established under article 90 of Protocol I, as compared to other parties which had accepted that obligation.

9. His delegation paid tribute to the International Committee of the Red Cross for its prominent role in the development of international humanitarian law and the promotion of the Protocols Additional to the Geneva Conventions of 1949. His delegation was in favour of retaining the item under consideration on the agenda of future sessions of the General Assembly, as it would be useful to continue to consider periodically the status of the Protocols.

10. Mr. ZHOU Xiaolin (China) said that the maintenance of peace was a fervent aspiration of all the peoples of the world. Unfortunately, however, since the end of the Second World War armed conflicts and wars of a local character had continued to occur. Modern science and technology had increased the power of weapons and methods of warfare. In such a situation, the 1949 Geneva Conventions could not totally fulfil their function of protecting victims of war. The two Protocols Additional to the Geneva Conventions, adopted, thanks to the efforts of the International Committee of the Red Cross, complemented and broadened the provisions of the Geneva Conventions by applying them to both international and non-international armed conflicts.

11. It should be pointed out that armed struggle against colonialism, foreign occupation and racism were defined in the Protocols as international armed conflict, thus granting the status of belligerent to those combatants who were participating in a just struggle. The adoption of the Protocols was an important step forward for international humanitarian law.

12. China, engaged as it was in a campaign of modernization, had need of a long period of peace. The Chinese Government attached great importance to the question of the protection of the civilian population in time of war and to the question of prisoners of war. Accordingly, it had acceded to the two Protocols on 14 September 1983.

(Mr. Zhou Xiaolin, China)

13. His delegation was pleased that third world countries were among the first States to accede to the Protocols. Several European countries had also become parties to the Protocols. It was regrettable that a few powerful countries with sizeable war machines had not yet declared their acceptance of the Protocols. The delegation of China expressed the hope that the Secretary-General would use his influence to ensure that the two Additional Protocols would receive the same universal acceptance of all States as had the 1949 Geneva Conventions.

14. Mr. VERENIKIN (Union of Soviet Socialist Republics) stated that the Soviet Union had participated in the work of elaborating the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of international armed conflicts (Protocol I) and the protection of victims of non-international armed conflicts (Protocol II). The Protocols, which were a landmark in the development of humanitarian law, afforded increased protection to non-participants in hostilities, especially the civilian population.

15. The Soviet Union had signed the Additional Protocols promptly. The question of ratification was being studied by the competent bodies. His Government would ratify the Additional Protocols, provided that they were also ratified by other States, particularly the permanent members of the Security Council.

16. Mrs. DIAGO (Cuba) said that Cuba had signed Additional Protocol I and had taken the necessary constitutional measures for its subsequent ratification. The Government of Cuba had not yet taken any decision regarding Additional Protocol II, which was still under consideration.

17. Her delegation shared the preoccupation of other delegations about regions of the world that remained engulfed in war and destruction. The current situation in Central America and the Caribbean continued to be aggravated by the threat of aggression against certain peoples who were struggling for their independence, sovereignty and self-determination.

18. The delegation of Cuba attached importance and offered its support to any effort aimed at safeguarding the implementation of the principles of humanitarian law and, in particular, the rules of international law relating to the protection of victims of international armed conflicts.

19. Mr. GASSER (Observer, International Committee of the Red Cross) said that the States parties to the Geneva Conventions relating to the protection of victims of armed conflicts had entrusted the International Committee of the Red Cross (ICRC) with the task of developing and disseminating international humanitarian law applicable in armed conflicts. Accordingly, ICRC had taken all possible steps to ensure that the Additional Protocols were accepted and became universal law, on a par with the 1949 Conventions (which were binding on 160 States thus far).

20. The purpose of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law, held in Geneva from 1974 to 1977, had been to adapt humanitarian law to the conditions of contemporary armed conflicts and to adjust it to the changing character of the international community.

(Mr. Gasser, Observer, International
Committee of the Red Cross)

21. The fact that the two Protocols had been adopted by consensus was in itself an important event. Additional Protocol I significantly facilitated the activities of medical services in an international armed conflict. New rules granted protective status to civil defence organizations. The parties to a conflict were bound to do everything possible to find persons reported missing. The most significant feature of the Protocol was the codification and development of the rules protecting the civilian population in time of war. Existing conventional and customary law - known as the Hague law - was considerably reinforced by the new provisions.

22. Additional Protocol II strengthened appreciably the humanitarian rules that had to be respected in situations of internal armed conflict, while preserving at the same time the right of Governments to maintain or re-establish law and order by all legitimate means.

23. The Red Cross movement had expressed its burning desire to contribute to peace at the Second World Red Cross and Red Crescent Conference on Peace, held in Aaland, Finland, and Stockholm from 2 to 7 September 1984, and was convinced that its multiple endeavours on behalf of humanitarian law were a real contribution to the building of peace.

24. ICRC appealed to the representatives of States which had not yet ratified the two Additional Protocols to take all possible steps to secure their Governments' acceptance of the instruments. The International Conference of the Red Cross, which comprised the various institutions of the Red Cross movement and representatives of the States parties to the Geneva Conventions, would undoubtedly have on its agenda in 1986 an item pertaining to the status of the Protocols.

AGENDA ITEM 128: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES: REPORT OF THE SECRETARY-GENERAL (A/39/186, A/39/188, A/39/456)

25. The CHAIRMAN invited the Under-Secretary-General and Legal Counsel to introduce the report of the Secretary-General (A/39/456).

26. Mr. FLEISCHHAUER (Under-Secretary-General for Legal Affairs, the Legal Counsel) introduced the report of the Secretary-General on the agenda item and said that two addenda containing reports transmitted pursuant to paragraph 8 of General Assembly resolution 38/136 would be circulated during the week in all languages.

27. The item in question had originally been included in the agenda of the Assembly in 1980 at the initiative of Denmark, Finland, Iceland, Norway and Sweden. At the time, the delegations of the five Nordic countries had indicated the need to safeguard the maintenance and normal development of diplomatic and consular relations, the corner-stone of co-operation between States and peoples, irrespective of their political and social systems. They had indicated, moreover, that diplomatic and consular missions and representatives were increasingly the subject of attacks and acts of violence, which seriously compromised co-operation between States. The two premises on which the initiative of the Nordic countries had been based were as valid today as they had been four years ago, as could be

(Mr. Fleischhauer)

seen from the report of the Secretary-General, even though that document did not provide a complete picture of the situation.

28. The General Assembly had taken note of the concern of the international community about that phenomenon and had established in 1980 a system - extended on three occasions - whereby reports concerning breaches of the security of diplomatic and consular missions and representatives were submitted to the Secretary-General by the States concerned and circulated to all members of the international community. The system had helped to strengthen the co-operation of States in that regard and represented a positive step - however modest - towards eliminating the problem, which was described in the report of the Secretary-General on the work of the Organization as "the steady increase in various forms of politically motivated violence, including hijacking, kidnapping, car-bombing and assassination".

29. Section II of the report of the Secretary-General submitted under General Assembly resolution 38/136 consisted, like its predecessors, of two parts. Subsection A contained reports received from States concerning serious violations of the security and safety of missions and consular and diplomatic representatives. It was noteworthy in that respect that, first, the number of reports continued to increase and, second, the system would be made available in future not only to States which were victims but also to States in whose territory the breaches occurred.

30. Subsection B reproduced views from States on the measures required to enhance the protection, security and safety of diplomatic and consular missions and representatives, pursuant to paragraph 10 of General Assembly resolution 38/136. That part of the report reflected the concern of States about the proliferation of incidents, together with their wish to maintain the reporting system established by resolution 35/168. In essence, it stressed the need for the international community to take effective preventive measures, promote greater public awareness of the importance of diplomatic functions, urge sending as well as receiving States to observe strictly the principles and rules of international law governing diplomatic and consular relations and invite all States which had not yet done so to become parties to the relevant international Conventions, in particular, the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

31. Lastly, the document reproduced the report submitted in accordance with paragraph 12 of General Assembly resolution 38/136 on the state of the above-mentioned international instruments. Although participation in some of those instruments had increased, the Assembly might once more wish to call on all States, as it had done in paragraph 6 of resolution 38/136, to become parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives.

32. The CHAIRMAN announced that the speakers' list for the debate on the present item would be closed the following day, at 6 p.m.

The meeting rose at 4 p.m.