



SUMMARY RECORD OF THE 12th MEETING

Chairman: Mr. DENG (Sudan)

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AGENDA ITEM 127: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (*continued*)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 127: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued)
(A/43/532)

1. Mrs. MANNHEIMER (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the Additional Protocols of 1977 were of fundamental importance for the development of international humanitarian law. They reaffirmed and specified the existing law and sometimes moved into the area of progressive development.

2. Although the Nordic delegations were pleased that the number of States parties to Additional Protocol I had reached 77, while that of States parties to Additional Protocol II totalled 69, they were somewhat concerned at the relatively slow pace at which the accessions were taking place. Even if many articles of the Additional Protocols could be considered as expressing customary international law, recognized even by States which had not yet ratified them, it was of utmost importance for all States to confirm the rules and principles set forth in the Protocols by acceding to them. Universal accession to the Protocols, which absolutely and unconditionally banned acts of terror, including murder, torture and the taking of hostages, would consolidate the existing body of international humanitarian law.

3. The Nordic delegations recommended that, when becoming parties to Protocol I, States should declare, under article 90, that they recognized the competence of the International Fact-Finding Commission in relation to other contracting parties accepting the same obligation. The Nordic countries intended to submit a draft resolution which would be based, with minor modifications, on General Assembly resolution 41/72, and they hoped that it would be adopted by consensus.

4. Mr. QUERTON (Belgium) said that his country had ratified the Additional Protocols, which had entered into force for Belgium on 20 November 1986. On 27 March 1987, Belgium had deposited with the Swiss Government, in accordance with article 90 of Protocol I, a declaration by which it recognized the competence of the International Fact-Finding Commission to inquire into allegations concerning grave breaches or other serious violations of the 1949 Geneva Conventions or of Protocol I, as authorized by article 90.

5. On 20 February 1987, the Belgian Government had established an interdepartmental commission on humanitarian law, composed of representatives of the Prime Minister, the Ministers of Justice, the Budget, Foreign Affairs, the Interior, the Departments of National Education of the French and Flemish communities, Social Affairs and National Defence, together with the Secretary of State for Public Health, which would be responsible for (a) drawing up a complete inventory of measures to be taken for the implementation of the Protocols and (b) following up and co-ordinating the development, by the ministerial departments concerned, of the required instruments. The Commission had decided to involve the Belgian Red Cross in its work. During its first year of operation, it had drawn up

(Mr. Querton, Belgium)

a complete inventory of measures (legislative or others) to be taken, indicating which should be given priority. A number of measures, such as assigning legal advisers to the Belgian armed forces, creating a humanitarian law body within the general staff (article 82 of Protocol I) and recognizing the competence of the Fact-Finding Commission (article 90 of Protocol I), had been implemented under the auspices of the Commission.

6. Mr. TETU (Canada) said that legislation for ratifying the Additional Protocols would soon be submitted to the House of Commons for consideration and adoption. Once the process had been completed, Canada would deposit its instrument of ratification with the competent authorities of the Swiss Government. Canada, which had participated actively in drawing up the Protocols, hoped by ratifying them to recognize their important contribution to international humanitarian law. Indeed, they represented a major step forward in that they extended the application of the rules of international humanitarian law to both the civilian and the military population, which had not previously been protected. His delegation expressed the hope that those countries which had not yet become parties to the Protocols would do so forthwith.

7. Mr. GASSER (International Committee of the Red Cross) said that, as the States parties to the Geneva Conventions of 1949 had entrusted the International Committee of the Red Cross (ICRC) with developing and disseminating international humanitarian law applicable in armed conflicts, ICRC had been taking all possible steps to encourage Governments to accept the Additional Protocols of 1977 on a par with the 1949 Conventions, which were currently binding on 165 States.

8. The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, which met from 1974 to 1977, had been successful in its task of adapting international humanitarian law to the conditions of contemporary armed conflicts and to the changing character of the international community following the accession of a great number of States to independence. The mere fact that the two Protocols had been adopted by consensus following such a long process of negotiation on a matter so closely linked to considerations of security was in itself an important event.

9. As of 30 September 1988, 77 States were parties to Protocol I and 68 were bound by Protocol II.

10. Additional Protocol I, on international armed conflicts, substantially facilitated the activities of medical services, both military and civilian. New rules protected civil defence organizations. Parties to a conflict were required to do everything in their power to search for persons who had been reported missing. The most significant provisions of the Protocol were certainly those which codified and developed the rules protecting the civilian population against the direct effects of hostilities. Of course, existing conventional and customary law remained valid, but it was considerably reinforced by the new provisions. It would suffice to mention the Protocol's solemn reaffirmation of the prohibition of attacks on the civilian population and on works and installations containing

(Mr. Gasser)

dangerous forces, as well as the banning of starvation of civilian populations. All those rules were ultimately the embodiment of a single rule, namely, that the parties to a conflict did not have an unlimited right to choose the methods or means of warfare. At the same time, they took into account the exigencies of national defence.

11. Additional Protocol II considerably strengthened the rules of humanitarian law that must be respected in situations of internal armed conflict, while preserving the right of Governments to maintain or re-establish order by all legislative means.

12. ICRC appealed to the representatives of all States which had not yet ratified the two Additional Protocols of 1977 to remind their Governments of the importance of those instruments for safeguarding human dignity in the midst of war.

The meeting rose at 5.35 p.m.