



SIXTH COMMITTEE
11th meeting
held on
Monday, 10 October 1988
at 3 p.m.
New York

SUMMARY RECORD OF THE 11th MEETING

Chairman: MR. DENG (Sudan)

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The meeting was called to order at 3.15 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 (A/43/532)

1. The CHAIRMAN, after briefly retracing the background of the question under consideration, said that Solomon Islands, from which the Swiss Government, depositary of the Protocols, had received an instrument of accession to the two Protocols on 19 September 1988, should be added to the list of States that had ratified or acceded to the Protocols Additional to the Geneva Conventions of 1949 as at 28 July 1988 which was annexed to the report of the Secretary-General before the Committee (A/43/532).
2. Mr. CHENAUX-REPOND (Observer for Switzerland) said that, having convened in 1977 the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, which had given rise to Protocols I and II Additional to the Geneva Conventions of 1949 for the protection of war victims, Switzerland was gratified to see the Sixth Committee turn its attention once more to the question of the status of the two instruments. The United Nations played a vital role in promoting international humanitarian law, and the Swiss Government paid particular tribute to the Secretary-General for his steadfast commitment to the humanitarian cause.
3. The Additional Protocols relating to the protection of victims of international and non-international armed conflicts, pursued the same aims as the Geneva Conventions of 1949, which they supplemented and clarified, bearing in mind the radical changes in the political and military situation since the end of the Second World War. That meant that to a large extent they codified the rules of customary law, while spelling them out further on some points. But what it meant above all was that as a result of the wider scope of the two texts, all cases of armed conflict, whether inter-State, international or internal, could henceforth be covered by the provisions of the law of nations - without the application of the Protocols affecting the juridical status of the parties to the conflict and of the territories in which it was taking place.
4. More specifically, those instruments strengthened the protection of civilians and combatants. In particular, Protocol I embodied the fundamental principles of law set forth in The Hague Conventions in a consistent set of rules, to which it added rules concerning the protection of the natural environment and of works and installations containing dangerous forces, such as nuclear installations.
5. It was therefore in the immediate interest not only of victims and combatants but also of the international community as a whole for all States to become parties to those two instruments.
6. The previous year, on the occasion of the tenth anniversary of the adoption on 8 June 1977 of the Additional Protocols, the Swiss Government, which acted as depositary of the Geneva Conventions and the Additional Protocols, had appealed to

(Mr. Chenaux-Repond, Observer,
Switzerland)

all States to take all measures in their power to ensure respect for humanitarian law. It had expressed the hope that the greatest possible number of States would become parties to Protocols I and II, so that those instruments would enjoy the degree of universality of the Geneva Conventions. To date, 77 States had ratified or acceded to Protocol I and 69 had ratified or acceded to Protocol II. Switzerland paid tribute to the contribution made by those countries to the development of international humanitarian law, and cherished the hope that the two instruments would rally the support of all States in the near future.

7. Switzerland was also deeply concerned about the increasingly widespread use of small-calibre high-energy-transfer munitions. The use of such munitions, which were apt to fragment in the human body, was contrary to customary international humanitarian law, as codified in article 35 of Additional Protocol I, which prohibited projectiles of a nature to cause superfluous injury, in the 1899 Hague Declaration concerning the use of bullets which expand or flatten easily in the human body and in the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects. Switzerland therefore invited States to refrain from equipping their forces with munitions that were contrary to international humanitarian rules.

8. It was particularly important to ensure that international humanitarian rules were applied universally and that humanitarian organizations were able to perform their duties effectively, while constantly alerting public opinion to the issue. There was no doubt that the Sixth Committee provided a constructive contribution to that endeavour to promote solidarity with men, women and children who had fallen victim to adversity.

9. Mr. HERNDL (Austria) said that ever since the question of the status of the Protocols Additional to the 1949 Geneva Conventions and relating to the protection of victims of armed conflicts had first been included in the Assembly's agenda, the purpose of the Sixth Committee's consideration of the item had been to ensure that gradually States would ratify or accede to the Protocols so that they would become part and parcel of generally accepted humanitarian law. Geneva law - the four Geneva Conventions of 1949 and the two Additional Protocols - was essential to ensure minimum protection for human beings in the event of armed conflict and in similar situations. Such situations held particular dangers for individuals since State organs, claiming observance of "higher interests" - those of the State - tended to disregard certain essential rules designed to safeguard the individual.

10. Referring to the most recent resolution adopted by the General Assembly on the issue (resolution 41/72), he said that compliance with the rules set forth in those instruments had proved to be of the utmost importance in recent conflicts. It was therefore heartening to note from the Secretary-General's report (A/43/532) that the number of States parties to the Additional Protocols had increased; Austria had ratified them as early as 1982.

(Mr. Herndl, Austria)

11. The number of States parties to the Protocols was close to half of the membership of the United Nations, which he saw as an encouragement to pursue the campaign for ratification of and accession to the Protocols. In their own way, they were as important as the Geneva Conventions and should therefore command the same support in the long term. The Austrian Government therefore called upon all States which were parties to the Geneva Conventions to take the necessary steps as soon as possible to become parties to the Protocols. Only if States showed, by taking practical and legal steps, that they were determined to respect the fundamental norms of humanitarian law in all armed conflicts would it be possible to ensure minimum protection for the individual. One of the main purposes of the United Nations was the prevention of war and the maintenance of peace. However, conflicts had erupted time and again and it was with a view to minimizing their consequences that nations had drawn up the Geneva Conventions and supplemented them by the Additional Protocols. The international community should therefore spare no efforts to ensure universal acceptance of the Protocols and the humanitarian law of which they formed part.

The meeting rose at 3.30 p.m.