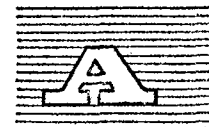


UNITED NATIONS
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UNITED NATIONS CONFERENCE ON PROHIBITIONS OR RESTRICTIONS
OF USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED
TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS

SUMMARY RECORD OF THE 8th MEETING

held at the Palais des Nations, Geneva,
on Friday, 28 September 1979, at 3 p.m.

President: Mr. ADENIJI (Nigeria)

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The meeting was called to order at 4.10 p.m.

ADOPTION OF THE REPORT TO THE GENERAL ASSEMBLY (agenda item 5) (A/CONF.95/CRP.1)

1. The PRESIDENT invited the Conference to consider its report to the General Assembly.
2. Mr. AKKERMAN (Netherlands), Rapporteur, introduced the draft report of the Conference to the General Assembly (A/CONF.95/CRP.1). Certain amendments had been proposed to the text. The first was to delete paragraphs 13 and 14 and to replace them by the following paragraph, which would be numbered 13: "Representatives of 81 States and of a number of observers indicated in the list of participants took part in the Conference." Subsequent paragraphs would be renumbered accordingly. In paragraph 21, it was proposed that the words "The Conference Working Group on a General Treaty was unable to complete its work" should be replaced by the words "The work on a general treaty could not be completed". It was further suggested that the full stop at the end of the last sentence of the paragraph should be changed to a comma and the following words added: "and a few difficulties remained even in respect of mines and booby-traps.". It was also suggested that a new final paragraph should be added, reading "On the recommendation of the Committee of the Whole, the Conference adopted a resolution on 'small calibre weapon systems', the text of which appears in annex ...".
3. Mr. de la GORCE (France) said that the following corrections should be made in the French text. In paragraph 7, the words "a élu" should be replaced by the words "a désigné comme", and in paragraph 8, in the first and second sentences, the word "élu" should again be changed to "nommé". In the last sentence of paragraph 8, the words "a présidé le Comité de rédaction" should be replaced by the words "a été nommé Président du Comité de rédaction". In paragraph 19, the words "comportant des clauses ou protocoles facultatifs" should be replaced by the words "auquel des clauses ou protocoles facultatifs seraient attachés". A similar change should be made in paragraph 4, where the word "comportant" in the penultimate sentence should be replaced by the word "assorti".
4. Mr. VANDERPUYE (Ghana) said that his delegation would like to know if it was intended to append the list of participants to the report. The appropriate reference could be made in paragraph 13.
5. The PRESIDENT said that it would not be in the interests of economy to reprocess a thick document like the list of participants in order to append it to the report, since it was available for consultation as a separate information document.
6. Mr. de ICAZA (Mexico) expressed his delegation's satisfaction with the amendments proposed to the present paragraph 21. It would, however, suggest that a further sentence should be added at the end of the paragraph, after the additional words proposed by the Rapporteur, which would indicate that the proposals on anti-personnel fragmentation weapons, flechettes and fuel-air explosives had not yet been fully examined and that it had therefore not been possible to come to an agreement on them.

7. He requested the Spanish text of paragraphs 4 and 19 to be aligned with the English text, in accordance with the observations made by the representative of France.
8. The PRESIDENT said that the observations made by the representatives of France and Mexico had been duly noted.
9. Mr. LATIF ABDINE (Syrian Arab Republic) suggested that, since a week had already been lost at the present Conference in repetitions of statements already made at the Preparatory Conference, the last sentence of paragraph 22 should be extended to read "... on outstanding issues, and that there would not be any general debate at the opening of that session".
10. It was so decided.
11. Mr. LATIF ABDINE (Syrian Arab Republic) said that the use of the word "optional" in paragraph 4, and especially paragraph 19, to describe the protocols or clauses to be attached to the convention prejudged the decision of the Conference. The notion of optional protocols originally put forward by the delegation of Mexico had not been supported by other delegations, and his delegation therefore favoured the deletion of the word from both paragraphs.
12. Mr. SUJKA (Poland) said that if the list of participants was to be mentioned in paragraph 13, it should be given its official title, which was "Provisional list of participants".
13. The PRESIDENT pointed out that it was the usual practice at conferences for the initial list of participants to be styled "provisional", since it might contain misprints, and in any case would not be complete. However, that adjective was not applicable to the final list, which would contain the names of all members of delegations.
14. Mr. de ICAZA (Mexico), referring to the statement made by the representative of the Syrian Arab Republic, said that paragraph 19 was a faithful reflection of the only basic paper submitted to the Working Group on a General Treaty, which had contained a proposal put forward by the Mexican delegation. The report of the Working Group had referred to a proposal to have an "umbrella" treaty with the protocols forming an integral part of it. The proposal had been well received, but the Working Group had not taken a definitive decision on it, deciding instead to support the idea of an "umbrella" treaty with optional protocols. However, his delegation did not object to the deletion of the term "optional" from paragraph 19.
15. Mr. PISSAS (Cyprus), referring to the last sentence of the present paragraph 22, requested that documents issued for the next session of the Conference should be made available to Governments as soon as possible and that a paper indicating which issues had already been agreed upon and which were outstanding for further discussion at that session should be prepared.
16. The PRESIDENT said that the remarks made by the representative of Cyprus had been duly noted.
17. Mr. LE KIM CHUNG (Viet Nam) endorsed the suggestion made by the Polish representative. A list of participants was purely provisional until the Credentials Committee had completed its work. Failure to include the term "provisional" would prejudice the decisions of the Credentials Committee at the following session of the Conference, and his delegation could not accept that.

18. Mr. SUJKA (Poland) said he did not agree with the President that misprints in the list of participants influenced the nature of the document, and repeated his request that the exact title of the document should be given in the report.

19. Mr. NAZARKIN (Union of Soviet Socialist Republics) supported the request made by the representative of Poland.

20. Mr. AN (China) referring to paragraph 13, said that his delegation supported the view expressed by the President. Indeed, a formal list of all the participants in the Conference should have been issued by now.

21. Mr. ALDRICH (United States of America) noted that rule 5 of the rules of procedure stated that: "Pending a decision of the Conference upon their credentials, representatives shall be entitled to participate provisionally in the Conference". It would therefore be more accurate if paragraph 13 referred to the "list of provisional participants".

22. Mr. SUJKA (Poland) said that the interpretation given by the United States representative was acceptable to his delegation.

23. Mr. THUN (German Democratic Republic) said that his delegation also agreed with the view expressed by the United States delegation.

24. The PRESIDENT drew attention to the fact that, by accepting the report of the Credentials Committee (A/CONF.95/5), which had decided not to proceed at the present time with the verification of the credentials submitted to date, the Conference had agreed to the continued participation of delegations on a provisional basis. He therefore expressed the hope that the Conference would be able to accept the wording of paragraph 13 read out by the Rapporteur, as amended by the United States delegation.

25. Mr. AN (China) proposed the retention of the original paragraphs 13 and 14 as contained in document A/CONF.95/CRP.1.

26. The PRESIDENT appealed to the representative of China not to insist on his proposal to retain the original paragraphs 13 and 14, whose deletion had been suggested as a result of lengthy consultations. The representative of China should, moreover, bear in mind the fact that the wording of paragraph 13 suggested by the Rapporteur, as amended by the United States delegation, was in keeping with rule 5 of the rules of procedure, which should be read in conjunction with paragraph 4 of the report of the Credentials Committee.

27. Mr. AN (China) said that the fact that the Credentials Committee had noted that the credentials of a considerable number of the 81 States participating in the Conference had not yet been received in proper order and that it had decided not to proceed at the present time with the verification of the credentials submitted to date did not mean that most of the participants did not have legal credentials. His delegation was of the opinion that it would be for the Credentials Committee to decide at the next session of the Conference whether or not the credentials of participants in the Conference were in proper order.

28. The PRESIDENT suggested that the meeting should be suspended so as to allow consultations to be held on the wording of paragraph 13.

The meeting was suspended at 5.10 p.m. and resumed at 5.45 p.m.

29. The PRESIDENT said that, as a result of the consultations held, it had been suggested that paragraph 13 should read: "Representatives of 81 States and of a number of observers participated in the Conference" and that paragraph 14 should be deleted. If there was no objection, he would take it that the Conference agreed to that suggestion.

30. It was so decided.

31. Mr. de ICAZA (Mexico) said that, as a result of consultations on his earlier proposal to add a new sentence at the end of paragraph 21, it had been suggested that that sentence should read: "Finally, no conclusions were reached on the proposals on anti-personnel fragmentation weapons, flechettes and fuel-air explosives, which have not yet been extensively examined."

32. Mr. BARROMI (Israel) noted that paragraph 21, even in amended form, made no mention of non-detectable fragments, to which reference was made in paragraph 13 of the report of the Committee of the Whole (A/CONF.95/6).

33. The PRESIDENT explained that no mention had been made of that subject because, as indicated in the report of the Committee of the Whole, the Drafting Committee, to which the "draft proposal concerning non-detectable fragments" had been referred, had not met during the present Conference and had therefore submitted no report to the Committee of the Whole on that item.

34. If there was no objection, he would take it that the Conference agreed to the amendments to paragraph 21 suggested by the Rapporteur and the representative of Mexico, as well as to the new final paragraph read out by the Rapporteur.

35. It was so decided.

36. Mr. LATIF ABDINE (Syrian Arab Republic) said that, for the reasons given earlier, he wished to propose the deletion of the word "optional" from paragraphs 4 and 19.

37. Mr. de ICAZA (Mexico) said that paragraph 4 merely reproduced the recommendation made by the Preparatory Conference, as reflected in paragraph 40 of that Conference's report (A/CONF.95/3). To accept the Syrian amendment would be tantamount to ignoring that decision; he could not, therefore, accept it. In fact, having re-read paragraph 40 of document A/CONF.95/3, he wished to revise his objection to the deletion of the word "optional" from paragraph 19 of the Conference's report.

38. Mr. KALSHOVEN (Netherlands), supported by Mr. NAZARKIN (Union of Soviet Socialist Republics), proposed the retention of the word "optional" in paragraphs 4 and 19.

39. Mr. LATIF ABDINE (Syrian Arab Republic) said that the Preparatory Conference had had only one text before it, that submitted by the Mexican delegation. The Preparatory Conference had, in its report, reproduced the title of that document but had never discussed it. Strict adherence to the letter of the Preparatory Conference's recommendation would mean that the body responsible for drafting the treaty would only be able to discuss a treaty to which optional protocols or clauses would be attached. That was unacceptable to his delegation. He would withdraw his proposal, provided that his delegation's objections to the word "optional" were reflected in the summary record of the meeting.

40. The PRESIDENT said that the word "optional" would therefore be retained in both paragraphs 4 and 19 of the draft report.

41. The draft report as a whole, as amended, was adopted.

CLOSURE OF THE SESSION

42. The PRESIDENT gave the floor to the representative of Democratic Kampuchea.

43. Mr. THUN (German Democratic Republic), speaking on a point of order, recalled that, at the beginning of the Conference, the point had been made that the person to whom the President had just given the floor represented no one but himself. Consequently, he should not be allowed to waste the time of the Conference.

44. The PRESIDENT said that he had no right to deny the floor to any participant in the Conference.

45. Mr. TE SUN HOA (Democratic Kampuchea) expressed his gratification at the spirit of co-operation and of understanding demonstrated by the majority of delegations at the Conference. He assured the President of his delegation's complete co-operation at any future sessions of the Conference.

46. Mr. AUBERT (International Committee of the Red Cross) said that ICRC had not taken the floor previously at the Conference, not because of indifference, but because it would have been inconsistent with its role, based on neutrality, to enter into a political debate.

47. He reiterated ICRC's satisfaction at the wide recognition given to the Additional Protocols to the Geneva Conventions. ICRC did not share the pessimism expressed by certain delegations with regard to the future of those Protocols. Although only 11 States had ratified them thus far, it should not be forgotten that they had been adopted only two years previously. He noted that, while only 16 States had ratified the Geneva Conventions in the two years following their adoption in 1949, they were currently recognized by more than 140 States. Moreover, many delegations had confirmed that ratification of the Protocols by their Governments had been delayed, not by any opposition of principle, but simply by procedural factors. He called upon all those States represented at the Conference which had not yet become parties to the Additional Protocols to ratify or accede to them as rapidly as possible. The strengthening of those instruments could only be beneficial to the work which must be completed at the second session of the Conference.

48. He emphasized the link that existed between the current Conference and the Conference on Humanitarian Law, which had met from 1974 to 1977 and had adopted the two Additional Protocols to the Geneva Conventions. The principles of customary law, contained in the Hague Conventions of 1899 and 1907, had been updated and developed in Protocol I in order, in particular, to improve the protection of civilian populations, and also to prevent excessive injury to combatants. At that Conference, however, it had become apparent that the updating of those principles also necessitated consideration of what they covered exactly at the current time. It would have been indefensible and unrealistic, while reaffirming the principle of prohibition of the use of weapons causing unnecessary suffering, to prohibit specifically only the use

of arms already known at the beginning of the century. The convening of the present Conference had demonstrated Governments' recognition of the need to examine current conventional weapons in the light of the reaffirmed and expanded principles.

49. As a result of the efforts made at the present Conference, it would be possible to complete the work begun in 1974 at the diplomatic level, with a view to updating international humanitarian law applicable in armed conflicts. He expressed the hope that no category of conventional weapons would be overlooked, so that the use of all those which could be excessively injurious or have indiscriminate effects could be regulated. The work of the Conference, the willingness to negotiate demonstrated by all States and the decision to hold a second session were encouraging in that regard. ICRC was convinced that the Conference would produce tangible results at its second session, thereby achieving important progress in the development of international humanitarian law.

50. However, that did not mean that the result achieved would be final. It would be essential to set up machinery for review, so that the development of new conventional weapons and the refinement of existing ones could be examined on a regular basis in the light of humanitarian principles. The structure of such machinery was a question which States alone could resolve.

51. ICRC assured the Conference of its fullest possible support in the future.

52. Mr. LE KIM CHUNG (Viet Nam), after expressing satisfaction at the results achieved at the Conference, reiterated his Government's most strenuous protest against the presence at the Conference of a delegate from the so-called Democratic Kampuchea régime, which was guilty of genocide and which had already been overthrown by the Kampuchean people. That person represented nothing valid. It was currently the People's Revolutionary Council of Kampuchea that was the true master of all the territory of Kampuchea, the actual manager of all the internal and external affairs of the People's Republic of Kampuchea and the sole authentic and legal representative of the people of Kampuchea. As the People's Revolutionary Council of Kampuchea had repeatedly stated, only persons whom it nominated were entitled to represent the people of Kampuchea at the various international organizations and conferences.

53. The PRESIDENT declared the session closed.

The meeting rose at 7 p.m.