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SUMMARY RECORD OF THE 7th MEETING

Chairman: Mr. LAMPTEY (Ghana)

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The meeting was called to order at 10.35 a.m.

AGENDA ITEM 134: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued) (A/49/255 and Corr.1 and A/49/255/Add.1)

1. Mr. POLITI (Italy) reaffirmed his country's commitment to promoting the widest possible acceptance of international humanitarian law as codified by the four Geneva Conventions of 12 August 1949 and the Protocols additional thereto. Italy had ratified Additional Protocol I, relating to the protection of victims of international armed conflicts, and Additional Protocol II, relating to the protection of victims of non-international armed conflicts. Moreover, Italy was among the States which had made the declaration recognizing the competence of the International Fact-Finding Commission established pursuant to article 90 of Additional Protocol I.

2. While his delegation was pleased to note the increasing number of States acceding to the additional Protocols, it invited those States that had not yet ratified the Protocols or accepted the competence of the International Fact-Finding Commission to do so.

3. However, universal acceptance of the principles of international humanitarian law was not sufficient. It was essential to prevent violations of those principles and to provide effective ways and means of guaranteeing compliance when violations occurred. For that reason, his delegation commended the results of the International Conference for the Protection of War Victims, held in Geneva in September 1993, and looked forward to the next International Conference of the Red Cross and Red Crescent, scheduled for December 1995.

4. Recent preliminary discussions of ways of preventing breaches of international humanitarian law had indicated that substantial progress could be made by establishing a system of State reports on the implementation of humanitarian law, creating a network of consultative services on implementation available to States, and strengthening the education programmes designed to ensure better knowledge of the relevant principles. In that connection, the meeting of governmental experts scheduled for January 1995 would define a number of specific issues for reflection and review by States.

5. His delegation emphasized the importance of Security Council resolution 827 (1993) establishing the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. In Italy's view, the establishment of the International Tribunal was a landmark in the development of instruments for the implementation of international humanitarian law.

6. The International Institute of Humanitarian Law in San Remo, Italy, had recently sponsored a round-table discussion on current problems of international

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humanitarian law, focusing on conflict prevention. That initiative showed, once again, the importance of the contribution made by the Institute to the study and development of international legislation in the humanitarian field.

7. Mrs. KUPCHYNA (Belarus) said that her country was a party to both additional Protocols and had also made the special declaration recognizing the competence of the International Fact-Finding Commission. Her country hoped that the number of States parties to the additional Protocols would continue to increase and called upon those States which had not yet done so to recognize the competence of the Commission.

8. An international conference on the development of international humanitarian law had been held in July 1994 in Minsk under the auspices of the Belarusian Red Cross. The conference, attended by participants from a number of countries members of the Commonwealth of Independent States, had worked out practical recommendations to be implemented on the national level.

9. The CHAIRMAN said that the Committee had concluded its consideration of the item.

AGENDA ITEM 135: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (continued) (A/INF/48/4; A/49/295 and Add.1 and 2)

10. Mrs. FERNANDEZ de GURMENDI (Argentina) strongly condemned all attacks against diplomatic and consular missions and representatives. Such acts not only constituted inadmissible assaults on the nationals and property of foreign States, but also directly affected international relations and impaired cooperation between States.

11. Her delegation noted with satisfaction the decrease in the number of such incidents recorded during the period covered by the report of the Secretary-General (A/49/295 and Add.1 and 2), especially at a time when conflicts were proliferating in many parts of the world. Her Government reaffirmed its commitment, in accordance with General Assembly resolution 47/31, to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations, and to continue to adopt practical measures to prevent any acts of violence in its territory.

12. While welcoming the accessions by new States to the Vienna Conventions on Diplomatic and Consular Relations, as reflected in chapter III of document A/49/295, her delegation wished to emphasize another aspect of the issue. Incidents occurring in Argentina and other parts of the world had revived her Government's concerns about abuses of diplomatic and consular privileges and immunities, especially where they involved serious acts of violence. It was important for the international community to stress the need for strict compliance with the provisions of the Vienna Convention, which gave diplomatic and consular missions and representatives privileges and immunities essential for the carrying out of their functions. At the same time, those instruments stressed the obligation of all persons who enjoyed such immunities and

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privileges to respect the laws and regulations of the receiving State and not to interfere in its internal affairs. Those conventions also provided that diplomatic and consular premises should not be used in a manner inconsistent with diplomatic and consular functions.

13. Mr. SHESTAKOV (Russian Federation) said that strict observance of the universal norms of diplomatic law was an essential factor in ensuring international stability, building confidence between States and strengthening the basis of the international legal order. Since 1980, when the item had been placed on the General Assembly's agenda at the request of the Nordic countries, it had lost none of its relevance, as reflected in the report of the Secretary-General, which described a significant number of acts of violence against diplomatic representatives.

14. In its resolutions, the General Assembly urged States to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations. The international community was in no way to blame for the absence of such norms or the unwillingness of many States to become parties to the relevant international conventions. There was currently a sound international legal basis in that area, and a growing number of States were conscientiously helping to strengthen it. However, in view of the situation which had developed, the international community was also entitled to request those States which had not yet done so to accede to the existing international conventions.

15. At the same time, despite the broad array of international legal instruments and the number of States parties thereto, not all States complied strictly with their international obligations to ensure the protection, security and safety of diplomatic and consular missions and representatives. Privileges and immunities were granted not for the personal benefit of any one individual, but in order to enable diplomatic and consular functions to be carried out effectively. The sending State was entitled to expect that its representatives would be fully protected while, at the same time, such representatives must respect the laws of the receiving State.

16. In its resolution 47/31, the General Assembly recommended that States should cooperate closely with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives. His delegation noted with satisfaction that new forms of cooperation were constantly being developed. In that connection, his delegation drew attention to paragraph 7 of the above-mentioned resolution, which called upon States, in cases where a dispute arose, to make use of the means for peaceful settlement of disputes, including the good offices of the Secretary-General.

17. Mr. MOTSYK (Ukraine) said that the protection of diplomatic and consular missions and representatives had been a cornerstone of the system of international cooperation since its inception. Since 1980, when the item had first been placed on the General Assembly's agenda, it had been discussed on a

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regular basis, a fact which underscored its relevance and urgency for both the international community and individual States.

18. His delegation strongly condemned the attacks against diplomatic and consular missions and representatives described in the report of the Secretary-General and believed that the perpetrators should be brought to justice.

19. At a time when his country was actively developing bilateral relations with other States, the question of the protection, security and safety of diplomatic and consular missions and representatives had acquired greater significance. In the past two years, Ukraine had opened more than 40 embassies and several consulates-general, while at the same time, almost 50 countries had opened diplomatic and consular missions in his country.

20. Ukraine fully complied with the provisions of the Vienna Conventions on Diplomatic and Consular Relations and of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. Ukraine hoped that States which had not yet done so would become parties to the relevant international legal instruments and that all States would adopt effective measures to strengthen the observance of their international obligations under diplomatic law.

21. Mr. AKAY (Turkey) said that his country, which had long been a target of international terrorism, attached great importance to the item under consideration. Terrorism was a crime against humanity; those who tolerated it or supported the perpetrators of such heinous acts were guilty of the same crime.

22. His country's policies for combating terrorism were in conformity with the provisions of the relevant international conventions and General Assembly resolutions. Acts of terrorism against a diplomatic or consular mission or its staff were penalized more severely in Turkey than elsewhere.

23. Turkey was a party to the Vienna Conventions on Diplomatic and Consular Relations and the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. His Government called upon States to take all necessary steps to protect the safety and security of the diplomatic and consular missions in their territories and to comply with their obligations under the relevant instruments.

24. The fundamental conclusion which his delegation drew from the report of the Secretary-General was that the protection afforded by certain States to Turkey's missions and representatives was not commensurate with the threat they faced. His delegation urged the States in question to strengthen such measures and to enhance the level and effectiveness of multinational cooperation in that area.

25. Mr. da COSTA (Angola) said that his Government strongly condemned all acts of violence against diplomatic and consular missions and their representatives,

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as well as against missions and representatives to international intergovernmental organizations and officials of such organizations.

26. Receiving States had an obligation to ensure the protection of diplomatic and consular representatives and their premises as well as missions and their representatives to international organizations.

27. His Government observed, implemented and enforced the principles and rules of international law governing diplomatic and consular relations and ensuring the protection, security and safety of diplomatic and consular missions and representatives.

28. All States should take all necessary steps at the national and international levels to prevent acts of violence against diplomatic and consular missions and representatives.

29. Mr. MARTENS (Germany), speaking in exercise of the right of reply on behalf of the European Union and Austria, said that at the previous meeting the representative of Iran had referred to a sentence contained in the European Union and Austrian statement on the agenda item. In that connection, it was his understanding that the United Kingdom delegation would make a statement.

30. Ms. WILMSHURST (United Kingdom), speaking in exercise of the right of reply, said that at the previous meeting the representative of Iran had raised some questions with regard to incidents mentioned in the statement made by Germany on behalf of the European Union and Austria. The incidents in question had consisted of two attacks on the British Embassy in Tehran. The first had occurred at 11.30 p.m. on 5 January 1994 when a petrol bomb had been thrown into the Embassy compound and had exploded near the main door of the Embassy building. The second incident had occurred at 11.40 p.m. on 9 January 1994 when unidentified assailants had fired a number of gunshots at the Embassy building, seven of which had penetrated windows on the upper floors and lodged in office walls. Those incidents had been reported to the Iranian authorities at the time and had been duly noted by them.

31. The Iranian representative had also referred to an incident at Kensington Town Hall, London, where a meeting arranged by the Iranian Embassy had been disrupted and one man had suffered minor injuries. The London incident had been reported by the United Kingdom to the Secretary-General, as reflected in section 14, paragraphs 14 to 17, of document A/49/295. The incidents in Tehran had not been reported by the United Kingdom to the Secretary-General as it had been her Government's practice to report only those which occurred in England.

32. The CHAIRMAN said that the Committee had concluded its consideration of the item.

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AGENDA ITEM 157: QUESTION OF CRITERIA FOR THE GRANTING OF OBSERVER STATUS IN THE GENERAL ASSEMBLY (A/49/231)

33. Mr. ROSENSTOCK (United States of America) said that his delegation had requested the inclusion of the item in the agenda of the forty-ninth session of the General Assembly because certain issues needing clarification had been raised and such clarification could be provided by agreement on criteria. The practice of admitting observers to the General Assembly was long-standing and, by and large, had caused no problems. As a rule, the status had been reserved for States and intergovernmental organizations.

34. Recent developments had, however, created the risk that the United Nations might become inundated with non-governmental organizations having observer status. Those organizations were entitled to status in the Organization, pursuant to Article 71 of the Charter of the United Nations and in accordance with the procedure laid down in Economic and Social Council resolution 1298 (XIV). Where observer status was concerned, however, it should first be determined whether the granting of authority to the Economic and Social Council under Article 71 of the Charter had expressio unius est exclusio alterius implications.

35. In addition, should observer status be granted to bodies other than States or intergovernmental organizations, it should be decided whether they could be accorded the privileges currently extended to observers without impairing the effective functioning of the General Assembly.

36. The new international order resulting from such developments as the ending of the cold war, the dismantling of apartheid in South Africa and the general demise of colonialism meant that the issue could be dealt with as a mere housekeeping matter, to be addressed by a working group at the current session of the General Assembly. The United States believed that the exercise would be neither complicated nor particularly prolonged and was willing to give it its full cooperation.

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (A/49/33)

37. Mr. MUTHAURA (Kenya), Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, introducing the report of the Special Committee contained in document A/49/33 said that the development of the Special Committee from an ad hoc body at the time of its inception in the mid-1970s to a permanent feature of the Organization demonstrated the universal recognition which it had been accorded. In 1994, the Committee had received and granted 43 requests for observer status and, following the procedure established in 1993, had invited intergovernmental organizations to participate in the plenary meetings at which the question of cooperation between the United Nations and regional organizations in the maintenance of international peace and security had been discussed.

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38. During the general debate at the Special Committee's 1994 session, many delegations had noted the encouraging developments in the international order, opening up great possibilities for unanimity which the Committee should take advantage of in seeking new ways of enhancing the effectiveness of the United Nations.

39. Through its Working Group, the Special Committee had analysed in depth a revised version of the working paper originally submitted by the Russian Federation in 1992, relating to the question of the maintenance of international peace and security. That analysis had led to the consensus adoption of the text of a draft declaration on the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security (A/49/33, para. 89), which stressed the role assigned by the Charter to such regional arrangements in the settlement of local disputes and in enforcement action under the authority of the Security Council. In addition, the draft recalled that cooperation between regional arrangements or agencies and the United Nations could include the exchange of information and holding of consultations, participation in the work of United Nations organs and the provision of personnel, material and other assistance. It addressed a number of recommendations to States with a view to increasing efforts at the regional level for the maintenance of international peace and security and encouraged the regional arrangements and agencies themselves to consider ways and means for promoting closer cooperation with the United Nations and to consider the possibility of establishing and training groups of military observers, fact-finding missions and contingents of peace-keeping forces to be used in coordination with the United Nations and under the authority or with the authorization of the Security Council, in accordance with the Charter. He hoped that the Committee would approve the draft and recommend its adoption to the General Assembly, thus usefully supplementing the list of valuable documents previously originating in the Special Committee.

40. The Special Committee had considered another working paper, sponsored by 21 delegations, on the maintenance of international peace and security (A/49/33, para. 52). While most representatives had agreed on the topical nature of the issue, in view of the Security Council's increasingly frequent resort to the application of sanctions and the growing number of adversely affected third States, some had felt that it called for institutional remedies while others had pointed out that, under Article 50 of the Charter, such adversely affected States should consult the Security Council with regard to a solution of those problems, and they had therefore questioned the usefulness of creating new machinery. It had been suggested by some representatives that the Security Council should undertake a study of the issue, but others had opposed that suggestion on the grounds that the Security Council could not be subjected to any conditions not provided for in the Charter.

41. Finally, the Committee had recommended that the Secretary-General should be invited to submit, before the Committee's 1995 session, a report to supplement the one contained in document A/48/573-S/26705, on the question of the implementation of the provisions of the Charter, including Article 50, related

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to the special economic problems confronting third States and arising from the imposition of sanctions mandated under Chapter VII of the Charter.

42. With regard to the same issue, the Special Committee had considered the working paper submitted by Cuba, entitled "Strengthening of the role of the Organization and enhancement of its efficiency", which had subsequently been revised by its sponsor as indicated in paragraph 94 of the Special Committee's report (A/49/33). During the debate on the topic, some members had pointed out that consideration of those issues in the Special Committee would merely duplicate the work of the Open-ended Working Group established by General Assembly resolution 48/26.

43. In the same context, the Special Committee had also considered a working paper submitted by the Russian Federation, entitled "New issues for consideration in the Special Committee", but the discussion had been brief and inconclusive.

44. With regard to the peaceful settlement of disputes, the Working Group had considered the revised version of a proposal submitted by Guatemala at the 1993 session, with an appended set of draft articles entitled "United Nations Model Rules for the Conciliation of Disputes Between States" (A/49/33, para. 105). Guatemala's initiative was designed to achieve the fuller utilization of the potential of the Charter in the area of the peaceful settlement and prevention of disputes, taking account of current realities, and it was broadly welcomed by other representatives, who viewed the draft articles as a timely contribution to the United Nations Decade of International Law.

45. Lastly, the Special Committee had considered a proposal submitted by Sierra Leone under the title "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" (A/49/33, para. 109), which was also broadly welcomed by the Committee although there was some divergence as to the priority which it should be accorded.

46. In conclusion, he expressed satisfaction with the Special Committee's progress in dealing with the complex and important items on its agenda and expressed his confidence that the forthcoming debate in the Sixth Committee would considerably assist the Special Committee in the further performance of its mandate.

AGENDA ITEM 143: CONVENTION ON JURISDICTIONAL IMMUNITIES OF STATES AND THEIR PROPERTY (A/C.6/49/L.2)

47. Mr. CALERO-RODRIGUES (Brazil), introducing his conclusions on the consultations on the agenda item contained in document A/C.6/49/L.2, said that during the previous two years, the Working Group had considered a possible text on the issue for submission to the Committee but in 1994 it had taken a somewhat different approach, concentrating on the issues with a view to achieving a closer convergence of views among members. While the divergent positions had not been fully reconciled, considerable progress had been achieved and five issues of substance had been identified, namely, the concept of a State for

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purposes of immunity in particular, the question of the status to be given to the constituent units of a Federal State; the concept of a State enterprise or other State entity in relation to commercial transactions; criteria for determining whether or not a contract was of a commercial character; contracts of employment; and measures of constraint against State property.

48. At the end of the debate on each issue he had tried to identify ways of reconciling differences between members' positions, and the document under consideration set forth his own assessment of such possibilities for convergence. He hoped the document would assist representatives, during their consideration of the item, in deciding whether or not to convene a conference of plenipotentiaries to conclude a convention, as suggested by the International Law Commission (ILC), in accordance with General Assembly decision 48/413.

The meeting rose at 11.50 a.m.