REPORT OF THE DRAFTING COMMITTEE

1. Rule 35 of the Rules of Procedure provided for a Drafting Committee composed of representatives of the States represented on the General Committee, that is, Algeria, Argentina, Australia, Brazil, Bulgaria, Canada, Cuba, Czech and Slovak Federal Republic, Democratic People's Republic of Korea, Egypt, Finland, Germany, India, Japan, Pakistan, Republic of Korea, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland and United States of America.

2. At its second plenary meeting, on 14 September 1992, the Conference unanimously elected Ambassador Mounir Zahran (Egypt) as Chairman of the Drafting Committee, and Mr. Sylwin J. Giżowski (Poland) as Vice-Chairman.

3. The Committee held five meetings between 16 and 17 September 1992.

4. The Committee had before it a number of informal proposals for inclusion in the Final Declaration.

5. The Drafting Committee reviewed the provisions of the Convention, article by article, as well as preambular paragraphs and purposes of the Convention, and gave careful and thorough consideration to the various proposals put forward by delegations. Its deliberations were marked by a spirit of goodwill and mutual accommodation which enabled it to adopt by consensus a Draft Final Document for consideration by the Conference (see Annex). The Final Document consists of three parts: I. Organization and Work of the Conference; II. Final Declaration; III. Summary Records of the Plenary Meetings of the Conference.
Annex

Final Document of the Second Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques

The Final Document of the Second Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques consist of three parts and two Annexes as follows:

I. Organization of Work of the Conference (ENMOD/CONF.II/...)

II. Final Declaration (ENMOD/CONF.II/...)

III. Summary Records of Plenary Meetings (ENMOD/CONF.II/...)

Annex I: List of Documents

Annex II: List of Participants

Annex III: Rules of Procedure

Annex IV: Proposals and ideas presented at the Conference which did not enjoy consensus for inclusion in the Final Declaration
Second Review Conference of the Parties to the Convention
on the Prohibition of Military or Any Other Hostile Use
of Environmental Modification Techniques

Final Document

PART I

Organization and Work of the Conference

I. ORGANIZATION AND WORK OF THE CONFERENCE

INTRODUCTION

1. The Final Declaration of the First Review Conference of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, under Article VIII, reads inter alia as follows:

"The Conference, recognizing the importance of the review mechanism provided in Article VIII, decides that a second Review Conference may be held at Geneva at the request of a majority of States Parties not earlier than 1989. If no Review Conference is held before 1994 the Depositary is requested to solicit the views of all States Parties concerning the convening of such a Conference in accordance with Article VIII paragraph 3 of the Convention."

2. By resolution 46/36 A of 6 December 1991, the General Assembly noted that, as a result of consultations, a majority of States Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques had expressed their wish to convene the Second Review Conference of the Parties to the Convention in September 1992 and that, to that end, the Secretary-General of the United Nations, as Depositary of the Convention, would hold consultations with the Parties to the Convention with regard to questions relating to the Conference and its preparation, including the establishment of a Preparatory Committee for the Conference.

3. Following such consultations, it was agreed that a preparatory committee, open to all States Parties to the Convention, would convene at the United Nations Office at Geneva on 6 April 1992.

4. The Preparatory Committee held one session at Geneva from 6 to 8 April 1992. The following States Parties to the Convention participated in the Preparatory Committee: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Czech and Slovak Federal Republic, Denmark, Egypt, Finland, Germany, Greece, Hungary, India, Ireland, Italy, Japan, Mongolia, Netherlands, New Zealand, Norway, Pakistan, Poland, Republic of Korea, Romania, Russian Federation, Spain, Sri Lanka, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Vietnam.

5. At its first meeting, on 6 April, the Committee elected Ambassador Paul O’Sullivan of Australia as its Chairman. At the same meeting, the Committee elected Ambassador Todor Ditchev of Bulgaria and Ambassador Mounir Zahrani of Egypt as Vice-Chairmen. The Committee authorized the Bureau to handle technical and other matters in the period before the Review Conference was convened.
6. The Secretary-General of the United Nations was represented by
Mr. Vicente Berasategui, Secretary-General of the Conference on Disarmament,
who opened the session of the Preparatory Committee. Mr. LIN Kuo-Chung,
Senior Political Affairs Officer, Office for Disarmament Affairs, Department
of Political Affairs, served as Secretary of the Committee.

7. The Committee decided to take its decisions by consensus.

8. In the course of its session, the Committee considered the following
organizational matters relating to the Second Review Conference:

(a) Date and duration
(b) Draft Rules of Procedure
(c) Provisional agenda
(d) Composition of the General Committee
(e) Background documentation
(f) Final document(s)

9. At its last meeting, on 8 April 1992, the Preparatory Committee adopted
its report, which was issued as a pre-session document of the Conference
(ENMOD/CONF.II/1). The report contained, inter alia, the Draft Rules of
Procedure and Provisional Agenda for the Conference (Annexes II and III
respectively).

10. The Committee decided to request the Secretariat to circulate a revised
estimate of the cost of the Conference reflecting the actual cost of the
session of the Preparatory Committee, which is contained in document
ENMOD/CONF.II/3.

11. The Committee decided to request that the following two background
papers be issued as pre-session documentation for the Conference:

(1) A summary of negotiations leading to the conclusion of the
Convention on the Prohibition of Military or Any Other Hostile Use
of Environmental Modification Techniques and of subsequent
developments related to the Convention, particularly for the
period 1984 to 1992; and

(2) A compilation of official communications regarding the
implementation of the objectives and provisions of the Convention
on the Prohibition of Military or Any Other Hostile Use of
Environmental Modification Techniques.

The above papers were subsequently issued as documents ENMOD/CONF.II/2 and
ENMOD/CONF.II/4, respectively.
Organization of the Conference

12. In accordance with the decision of the Preparatory Committee, the Conference was convened on 14 September 1992 at the Palais des Nations in Geneva.

13. At its first meeting, on 14 September, the Conference elected by acclamation Ambassador Paul O’Sullivan, Permanent Representative of Australia to the United Nations for Disarmament Matters in Geneva, as its President.

14. At the same meeting, a message from the Secretary-General of the United Nations Boutros Boutros Ghali, was delivered by the Representative of the Secretary-General, Mr. Prvoslav Davinic, Director of the United Nations Office for Disarmament Affairs.

15. The Conference adopted its agenda as recommended by the Preparatory Committee (ENMOD/CONF.II/5).


17. The Conference adopted its Rules of Procedure as recommended by the Preparatory Committee (ENMOD/CONF.II/6). The Rules of Procedure provided for (a) a General Committee, chaired by the President of the Conference and composed of the Chairman of the Drafting Committee and the Credentials Committee, as well as the 18 Vice-Presidents of the Conference; (b) a Drafting Committee, composed of representatives of the same 21 States Parties represented on the General Committee; (c) a Credentials Committee, composed of a Chairman and Vice-Chairman elected by the Conference, and five other members appointed by the Conference on the proposal of the President.

18. The Conference elected by acclamation 17 Vice-Presidents from the following States Parties: Algeria, Argentina, Brazil, Canada, Cuba, Czech and Slovak Federal Republic, Democratic People's Republic of Korea, Finland, Germany, India, Japan, Pakistan, Republic of Korea, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland and the United States of America. The Conference elected by acclamation the Chairman and the Vice-Chairman of the Drafting Committee, as follows:

Chairman: Ambassador Mounir Zahran (Egypt)

Vice-Chairman: Mr. Sylwin Gizowski (Poland)

The Conference also elected by acclamation the Chairman and the Vice-Chairman of the Credentials Committee, as follows:

Chairman: Ambassador Todor Dichev (Bulgaria)

Vice-Chairman: Ambassador Nicolas Macris (Cyprus)

The Conference also appointed the following five States Parties as members of the Credentials Committee: Algeria, Argentina, Netherlands, Sri Lanka and Switzerland.
19. The Conference confirmed by acclamation the nomination of Mr. LIN Kuo-Chung, Senior Political Affairs Officer, United Nations Office for Disarmament Affairs, as Secretary-General of the Conference. The nomination had been made by the Secretary-General of the United Nations, following an invitation by the Preparatory Committee.

Participation at the Conference

20. 40 States Parties to the Convention participated in the Conference as follows: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Cuba, Cyprus, Czech and Slovak Federal Republic, Democratic Republic of Korea, Denmark, Egypt, Finland, Germany, Greece, Hungary, India, Ireland, Italy, Japan, Kuwait, Mongolia, Netherlands, New Zealand, Norway, Pakistan, Poland, Republic of Korea, Romania, Russian Federation, Spain, Sri Lanka, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Vietnam.

21. In addition, three States which have signed the Convention but have not yet ratified it participated in the Conference without taking part in its decisions, as provided in Rule 43 of the Rules of Procedure: Bolivia, Iraq and Morocco.

22. Six additional States, Chile, France, Peru, Nigeria, Mexico and Venezuela, neither Party nor Signatory of the Convention, applied for Observer status in accordance with paragraph 1 of Rule 44. Such status was granted to them by the Conference.

23. The United Nations Conference on Environment and Development (UNCED) applied for observer status in accordance with paragraph 2 of Rule 44. Such status was granted to it by the Conference.

24. The World Meteorological Organization (WMO), International Committee of the Red Cross (ICRC), League of Arab States, Regional Organization for the Protection of the Marine Environment applied for Observer Agency status in accordance with Rule 46. Such status was granted to them by the Conference.

25. Two non-governmental organizations attended the Conference under Rule 47.

26. A list of all delegations to the Conference, including States Parties, Signatories, Observer States, Observer Agencies and non-governmental organizations is contained in Annex II.

27. The Credentials Committee met on 16 September and reported on the credentials of representatives of States Parties and Signatories (ENMOD/CONF/II/10). At its fifth plenary meeting on 17 September the Conference took note of the report.

Work of the Conference

28. The Conference held ... plenary meetings between 14 and ... September when it concluded its work.
29. The general debate, in which 26 States Parties made statements, took place at the first to fourth plenary meetings held from 14 to 15 September. At its fourth plenary meeting, on 15 September, the Conference decided to review the provisions of the Convention article by article, the preamble and purposes of the Convention, in connection with the work of the Drafting Committee.

30. The Drafting Committee met between 16 and 17 September, and submitted its report to the Conference on 18 September (ENMOD/CONF.II/11). The Conference, at its ... plenary meeting, on .. September, took note of the report.

31. Some of the proposals and ideas presented at the Conference which did not enjoy consensus for inclusion in the Final Declaration appear in Annex IV.

Documentation

32. A list of the documents of the Conference is attached in Annex I. A working paper entitled "Second Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques" (ENMOD/CONF.II/8) was submitted by the delegations of Finland and the Netherlands.

Conclusion of the Conference

33. At its ... and final plenary meeting on ... September, the Conference adopted its Final Document as recommended by the Drafting Committee in document ENMOD/CONF.II/... The Final Document consists of three Parts: I. Organization and work of the Conference; II. Final Declaration; and III. Summary Records of Plenary Meetings of the Conference.
Second Review Conference of the Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques

Final Document

PART II

Final Declaration
II. FINAL DECLARATION

The States Parties to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, having met in Geneva from 14 to .. September 1992 under the provisions of Article VIII to review the operation of the Convention, with a view to ensuring that its purposes and provisions are being realized and in particular to examine the effectiveness of the provisions of paragraph 1 of Article I in eliminating the dangers of military or any other hostile use of environmental modification techniques:

Continuing to be guided by the interest of consolidating peace, and of bringing about general and complete disarmament under strict and effective international control, and of saving mankind from the danger of using new means of warfare,

Welcoming the fundamental changes in the international situation since the First Review Conference, which have contributed to important progress in arms limitation and disarmament,


Reaffirming their determination to continue negotiations with a view to achieving further progress towards effective measures in the field of disarmament,

Considering that the Convention constitutes a contribution to the strengthening of trust among nations, to the improvement of the international situation and to the maintenance of international peace and security in accordance with the purposes and principles of the Charter of the United Nations,

Recognizing the continuing importance of the Convention and its objectives, and the common interest of mankind in maintaining its effectiveness in prohibiting the use of environmental modification techniques as a means of war,

Reaffirming their belief that universal adherence to the Convention would enhance international peace and security,

Considering also that universal adherence to the Convention could facilitate international co-operation in the use of environmental modification techniques for peaceful purposes in the interest of all States, including in particular developing States,

Appealing to all States to uphold the principle of transparency in all areas regarding environmental modification techniques and to refrain from any action which might place the Convention or any of its provisions in jeopardy,
Declare as follows:

Purposes

The States Parties to the Convention reaffirm their strong common interest in preventing the use of environmental modification techniques for military or any other hostile purposes. They reaffirm their strong support for the Convention, their continued dedication to its principles and objectives and their commitment to implement effectively its provisions.

Article I

The Conference confirms that the obligations assumed under Article I have been faithfully observed by the States Parties. The Conference is convinced that the continued observance of this Article is essential to the objective, which all States Parties share, of preventing military or any other hostile use of environmental modification techniques.

Having re-examined the provisions of paragraph 1 of Article I, taking into account the relevant Understandings, the Conference reaffirms that they have been effective in preventing military or any other hostile use of any environmental modification techniques between States Parties and, having regard to the different views expressed in the course of the debate on this Article on the question of scope, affirms the need to keep its provisions under continuing review and examination in order to ensure their global effectiveness.

The Conference believes that all research and development on environmental modification techniques as well as their use should be dedicated solely to peaceful ends.

Article II

The Conference reaffirms its support for this Article containing the definition of the term "environmental modification techniques". The Conference agrees that this definition, taken together with the Understandings relating to Articles I and II, covers military or any other hostile use of any environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any State Party by another State Party.

Together, the Article and its Understanding deserve to be emphasized. Due attention should be given to all relevant research, developments and new techniques in the fields of science and technology. With regard to the phenomena which could be caused by the use of environmental modification techniques listed in the Understanding to Article II, the Conference notes that this list is illustrative and not exhaustive.

The Conference confirms that the military or any other hostile use of herbicides as an environmental modification technique in the meaning of Article II is a method of warfare prohibited by Article I if such use of herbicides upsets the ecological balance of a region, thus causing widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.
Article III

The Conference reaffirms that Article III is without prejudice to any rules of international law which may apply to environmental modification techniques used for peaceful purposes. The Conference notes with satisfaction that the implementation of the Convention has not hindered the economic or technological development of States Parties. The Conference recalls that States Parties have undertaken to facilitate the fullest possible exchange of scientific and technological information on the use of environmental modification techniques for peaceful purposes. The Conference further calls upon States Parties also to provide and facilitate the fullest possible exchange of scientific and technological information on the research on and development of such environmental modification techniques. The Conference reaffirms the need in the interest of transparency to strengthen exchange, as set forth in Article III, of all relevant information pertaining to development of environmental modification techniques, within the framework of the United Nations, in particular, in co-operation with such organizations of the United Nations system as the World Meteorological Organization (WMO), the United Nations Environment Programme (UNEP) and the World Health Organization (WHO). The Conference also calls upon States Parties in a position to do so to continue to contribute to and strengthen, alone or together with other States or international organizations, international economic and scientific co-operation in the preservation, improvement and peaceful utilization of the environment, with due consideration for the needs of the developing areas of the world.

Article IV

The Conference notes the provisions of Article IV, which requires each State Party to take any measures it considers necessary in accordance with its constitutional processes to prohibit and prevent any activity in violation of the provisions of the Convention anywhere under its jurisdiction or control.

Article V

The Conference notes that no State Party has found it necessary to invoke the provisions of Article V dealing with international complaints. The Conference reaffirms the importance of paragraph 1 of this Article, which contains the undertaking of States Parties to consult one another and to co-operate in solving any problems which may arise in relation to the objectives of, or in the application of the provisions of, the Convention and of paragraph 2, which provides for the convening of a Consultative Committee of Experts. In the view of the Conference the provisions of Article V, paragraphs 1 and 2, do not exclude the possibility of consideration, by States Parties, of the summary of findings of fact of the Consultative Committee of Experts.
The Conference notes the intention of a number of States Parties to consider requesting, not later than 1995, the Depositary to convene a Consultative Committee of Experts as provided for under paragraph 2 of Article V in order to provide expert views relevant to clarifying the scope and application of the provisions of the Convention. The Conference also notes the view of some States Parties that such a meeting of the Consultative Committee of Experts is not necessary.

The Conference reaffirms the importance of paragraph 3 of Article V which provides that any State Party which finds that any other State Party is acting in breach of its obligations under the Convention may lodge a complaint with the United Nations Security Council, and of paragraphs 4 and 5 of Article V under which each State Party undertakes to co-operate in carrying out any investigation which the Security Council may initiate and to provide or support assistance, in accordance with the provisions of the Charter of the United Nations, to any State Party which so requests, if the Security Council decides that such Party has been harmed or is likely to be harmed as a result of a violation of the Convention.

The Conference considers that the flexibility of the provisions concerning consultation and co-operation on any problems which may arise in relation to the Convention, or in the application of the provisions of the Convention, should enable complaints or disputes to be effectively resolved.

The Conference notes that the Sixth Committee of the United Nations General Assembly and the experts meetings of the International Committee of the Red Cross (ICRC) will address the laws of armed conflict as they pertain to the environment and expresses its support for these efforts.

**Article VI**

The Conference notes that during the operation of the Convention no State Party has proposed any amendments to the Convention under the procedures laid down in Article VI.

**Article VII**

The Conference reaffirms that the Convention shall be of unlimited duration.

**Article VIII**

The Conference notes with satisfaction the spirit of co-operation in which the Review Conference was held.

The Conference, recognizing the importance of the review mechanism provided in Article VIII, decides that a third Review Conference may be held at the request of a majority of States Parties not earlier than 1997. If no Review Conference is held before 2002 the Depositary is requested to solicit the views of all States Parties concerning the convening of such a Conference in accordance with Article VIII paragraph 3 of the Convention.
Article IX

The Conference notes that 55 States have become Parties to the Convention and a further 17 States have signed but have yet to ratify the Convention. The Conference notes with concern that the Convention has not yet achieved universal acceptance. Therefore, the Conference calls upon all signatory States, Bolivia, Ethiopia, Holy See, Iceland, Iran (Islamic Republic of), Iraq, Lebanon, Liberia, Luxembourg, Morocco, Nicaragua, Portugal, Sierra Leone, Syrian Arab Republic, Turkey, Uganda and Zaire, to ratify the Convention without delay, and upon those States which have not signed the Convention to accede to it as soon as possible and thereby join the States Parties thereto in their efforts to prohibit effectively military or any other hostile use of environmental modification techniques. Such adherence would be a significant contribution to international confidence and to the strengthening of trust among nations. The Conference calls upon all successor States, as appropriate, to confirm their membership or to take such actions as they find necessary to become parties to the ENMOD Convention. It also calls upon all other newly independent States to accede to the Convention. The Conference requests the United Nations Secretary-General, in his role as Depositary, to intensify efforts to assist States Parties in promoting the universality of the Convention, including through the provision of appropriate advice on procedures.
Annex IV

Proposals and ideas presented at the Conference which did not enjoy consensus for inclusion in the Final Declaration

Preambular paragraphs

- It was proposed by several delegations that Principle 24 of the Rio Declaration, adopted at the United Nations Conference on Environment and Development, held in Rio de Janeiro from 3 to 14 June 1992, be quoted in extenso as follows: "Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its development, as necessary".

- Some delegations considered that weapons of mass destruction constitute the method of warfare with the strongest potential to affect the environment in the case of a conflict. For those delegations new prohibitions in relation to weapons of mass destruction and the reinforcement of the existing regimes will contribute to the common goals of environmental protection and reduction of the risk of war.

- The view was expressed that all States Parties should equally refrain from threat of use which might place the Convention or any of its provisions in jeopardy.

Article 1

- Criteria which permit infliction of damage which is not "widespread, long-lasting or severe" ought to be abolished completely.

- In view of the International Law Commission's (ILC) draft provisions on State Responsibility which place massive pollution of the air and of the seas in the category of international crimes, violations of this article should be defined as "international crimes against the environment".

- Under international law no circumstances whatsoever can justify any large-scale destruction of the environment.

- Under existing international customary law it is already prohibited to cause significant damage to the environment of other States or areas beyond national jurisdiction.

- It was proposed that the following language be included at the appropriate section of the Final Declaration: 'The Conference confirms that the obligations assumed under Article I have been faithfully observed by State Parties. It welcomed their commitment to continue to observe their obligations fully, including vis-a-vis non State Parties acting in conformity with the provisions of this Article.'
The dumping of nuclear and toxic and hazardous wastes including chemical wastes in territories of developing countries should fall within the scope and provisions of the ENMMOD Convention even if they are not deliberately used in military and other hostile activities.

Bringing Article I, paragraph 1, into harmony with the requirement of international law and international rules of warfare, particularly Protocol I Additional of the Geneva Conventions of 1949.

**Article II**

Clearer definition of the scope of the ENMMOD Convention is needed for the Convention to become relevant to developments in international security.

**Article IV**

The view was expressed that the provisions of Article IV of the Convention apply anywhere under the jurisdiction or control of each State Party; concern was expressed about the right of using environmental modification techniques for hostile purposes far beyond the jurisdiction and the limitation of state liability in such circumstances.

**Article V**

The view was expressed that the system provided for in Article V should be reviewed since the Security Council is not always a representative organ reflecting the membership of the States Parties to the ENMMOD Convention and due to the possibility of using the right of veto.

**Article IX**

Concerning the call made to the "successor States", in fact to the States which emerged following the dissolution of the former USSR, the Algerian delegation expressed the opinion that a difference existed between the case of the Russian Federation - which is recognized by all as the "continuity" and the "successor" of the former Soviet Union - and the other republics. These republics are, in the view of this delegation, new subjects of International Law and, therefore, their eventual accession to ENMMOD Convention cannot be realized through simple "confirmation" of State-party quality, a quality that they do not own, but through the adhesion procedure described in Article IX paragraphs 1 and 2 of the ENMMOD Convention.