

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/DC.1
17 September 1992

ENGLISH ONLY

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Geneva, 14-21 September 1992

DRAFT 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. Gizowski (Poland) as Vice-Chairman.
3. The Committee held ... meetings between 16 and ... 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.

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

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 Ditchchev of Bulgaria and Ambassador Mounir Zahran of Egypt as Vice-Chairmen. The Committee authorized the Bureau to handle technical and others 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) Data and duration
 - (b) Draft rules and 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

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 Ditchhev (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 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. ... States Parties to the Convention participated in the Conference as follows:

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, Morocco.

22. Four additional States, Chile, France, Mexico, 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) applied for Observer Agency status in accordance with Rule 46. Such status was granted to them by the Conference.

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

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PART II

Final Declaration

Appealing to all States 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.

[*Obligations vis-à-vis non-States Parties]

*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 environmental modification techniques by States Parties and further reaffirms] the need to keep under continuing review and examination its provisions in order to ensure their global effectiveness [, and having regard also to the different views expressed in the course of the debate on this Article on the question of expanding its Scope.].

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.

constitutional processes to prohibit and prevent any activity in violation of the provisions of the Convention anywhere under its jurisdiction or control, [in particular, taking into account the understandings reached under Article I].

Article V (1984)

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 cooperate 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 paragraphs 4 and 5 of Article V under which each State Party undertakes to cooperate 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 cooperation on any problems which may arise in

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 and 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.

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".

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 the ENMOD 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 ENMOD Convention.
