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Protection of the environment in relation to armed conflicts

Statement of the Chairman of the Drafting Committee, Mr. Pavel Šurma

5 August 2016

Mr. Chairman,

It gives me great pleasure to introduce the seventh report of the Drafting Committee for the sixty-eighth session of the Commission. This report concerns the topic “Protection of the environment in relation to armed conflicts” and is contained in document A/CN.4/L.870/Rev.1, which reproduces the text of the draft introductory provisions and draft principles taken note of by the Commission last year and further technically revised by the Drafting Committee at the present session.

You will recall that following the debate on this topic in Plenary at the present session, the Commission decided to refer back to the Drafting Committee the draft introductory provisions and draft principles it had taken note of during the sixty-seventh session, contained in A/CN.4/L.870, to address some technical issues. It also referred to the Drafting Committee the draft principles contained in the third report of the Special Rapporteur (A/CN.4/700). The Drafting Committee’s work on those draft principles will be the subject of another report.

Before addressing the details of the report, let me pay tribute to the Special Rapporteur, Ms Marie Jacobsson, whose mastery of the subject, guidance and cooperation greatly facilitated the work of the Drafting Committee. I also thank the members of the Drafting Committee for their active participation and valuable contributions to the successful outcome. Furthermore, I also wish to thank the Secretariat for its invaluable assistance.

Let me note that since the conclusion of document A/CN.4/L.870/Rev.1, the Drafting Committee has completed the consideration of the other draft principles on this topic presented by the Special Rapporteur. One of the draft principle adopted in that context has consequences for the numbering contained in the present text. In particular, the Drafting Committee provisionally adopted draft principle 6 on Protection of the environment of indigenous peoples. This means **that draft principles 8, 9, 10, 11, and 12 will accordingly be renumbered as draft principles 9, 10, 11, 12 and 13.**

In the consideration of the draft principles referred to it, the Drafting Committee devoted some time to the technical revision of the draft introductory provisions and draft principles taken note of by the Commission last year. The main issue pertained to the use of brackets around the word “natural” in several of the draft principles. You will recall from the Drafting Committee’s report presented last year that the brackets had been included in order to indicate that the Drafting Committee had yet to decide whether it should for the purposes of the draft principles use “environment” or “natural environment” throughout the text, or whether it should use “natural environment” only in the instance that the principle related to “natural environment” during armed conflict, as it was that term that the law of armed conflict employed. Further information on the discussion on this issue is provided in the statement of the Chairman of the Drafting Committee from last year.

The Drafting Committee decided to remove the brackets in the text and to indicate in a footnote to the principle on scope, that the issue of terminology, which has substantive implications, has to be revisited in the future. The footnote therefore reads as follows: “Whether the term “environment” or “natural environment” is preferable for all or some of these draft principles will be revisited at a later stage.”

Furthermore, from a purely editorial point of view, the Drafting Committee, having noticed some inconsistencies in the text, decided to delete the word “draft” in the heading of Part Two and to insert the word “natural” before “environment” in the title of draft principle 9. This latter adjustment was only made to ensure consistency between the text of draft principle 9, which used the term “natural environment” and the title. It was not intended to prejudice future discussions on which term would ultimately be used in the draft principles.

The Drafting Committee also observed that the title of Part One had been limited to draft principles on preventive measures and therefore did not correspond to the content of this section, which would include not only draft principles dealing with preventive measures but also draft principles having a broader temporal scope. The Drafting Committee therefore found it appropriate to reflect this aspect and decided to change the title of Part One from “Preventive measures” to “General principles”.

The Drafting Committee also considered the numbering used for the draft principles and decided to renumber them in order to conform to the system traditionally used by the Commission, in other words, consecutive numbering using Arabic numerals. For similar reasons of consistency, the Drafting Committee decided to entitle the introductory provisions on “scope” and “purpose” draft principles. The ellipses in the text indicate placeholders for additional draft principles.

Mr. Chairman,

This concludes my introduction of the seventh report of the Drafting Committee for the sixty-eighth session. As indicated earlier, the Drafting Committee has now completed the consideration of the other draft principles referred to it at the present session and will revert at the appropriate time next week.

It is my sincere hope that the Plenary will be in a position to adopt the draft principles on the protection of the environment as presented taking into account the proposed change in the numbering to **draft principles 8, 9, 10, 11, and 12** to be **draft principles 9, 10, 11, 12 and 13**.

Thank you very much.