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*Chairman:* Mr. Agha SHAHI (Pakistan).

**AGENDA ITEM 104**

**Question of chemical and bacteriological (biological) weapons (*concluded*) (A/C.1/988, A/C.1/989 and A/C.1/991; A/C.1/L.489 and Add.1-3, A/C.1/L.498, A/C.1/L.500 and Add.1-2):**

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- (c) Report of the Secretary-General (A/7575)

**CONSIDERATION OF THE DRAFT RESOLUTIONS**

1. Mr. KUŁAGA (Poland): I should like to make some brief observations with regard to the draft resolution on chemical and bacteriological (biological) weapons, which has been jointly elaborated by a number of delegations and which has been submitted for our approval in document A/C.1/L.500 and Add.1.

2. In the view of my delegation the problem of banning chemical and bacteriological weapons is one of the most important items of the current session of the General Assembly. This was, and is, the approach of the socialist countries to this problem, as evidenced both in the draft convention submitted in document A/C.1/L.487 and Add.1, as well as in the draft resolution on this item contained in document A/C.1/L.488, which we withdrew to help reach agreement in the Committee. It would be only proper, therefore, to underline the significance of the fact that on this all-important question it was possible to work out a draft resolution which, while embracing all the vital aspects of the problem, is, I trust, acceptable to all delegations. Representing a country which for a long time

has been keenly interested in the final and total elimination of chemical and bacteriological (biological) weapons, my delegation welcomes this fact with much satisfaction.

3. The draft resolution upon which we are about to vote [A/C.1/L.500 and Add.1] to my mind fully reflects the spirit of the debate both in the plenary Assembly and in our Committee. It also reflects and meets the postulates of the Secretary-General's report<sup>1</sup> on this matter. Our debate in this Committee has certainly revealed the existence of similar views among an overwhelming majority of States on two important points. First, the need for an early and radical solution to the problem of the total ban on the development, production and stockpiling of chemical and bacteriological (biological) weapons as well as the destruction of their stockpiles, and furthermore, and I stress this, the need for reaching an adequate agreement in this regard. Secondly, the necessity of taking the above-mentioned steps simultaneously for both chemical and bacteriological (biological) weapons of mass destruction.

4. In the view of the Polish delegation these two aspects of our debate are correctly reflected in the text of the draft resolution, particularly in part C concerning recommendations. I am convinced that the constructive and businesslike atmosphere prevailing in our debate in this Committee, and more particularly during our work on the elaboration of the joint draft resolution, will continue and will ultimately enable the Committee on Disarmament at Geneva to achieve tangible and speedy progress on the preparation of the draft convention.

5. I should like, with your permission, to express the conviction that this jointly elaborated draft resolution will gain the full support of all delegations present in this conference room.

6. As far as our delegation is concerned, I wish to emphasize that as in the past my country will not spare any effort to contribute to the reaching of an agreement on the total and complete elimination of chemical and bacteriological (biological) weapons, weapons of mass destruction.

7. Mr. ESCHAUZIER (Netherlands): In my intervention in the general debate in this Committee [1699th meeting] I stated plainly that my delegation is opposed to any action which might weaken the authority of the Geneva Protocol<sup>2</sup> and deter countries which have not yet adhered to it from doing so.

<sup>1</sup> *Chemical and Bacteriological (Biological) Weapons and the Effects of Their Possible Use* (United Nations publication, Sales No. E.69.I.24).

<sup>2</sup> Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925.

8. On that same occasion I set forth our objections to the draft declaration contained in document ENDC/265 [A/7741-DC/232,<sup>3</sup> annex C, section 30]. I also called upon the sponsors of that document to re-examine its text in the light of my observations.

9. I note with appreciation that the sponsors have presented to this Committee a revised version of that draft, which is now before us as document A/C.1/L.489 and Add.1-3. However, I am bound to say that in our judgement the present wording does not in any way change the intent and purpose of the draft declaration, which we continue to view with grave misgivings.

10. During the debate in this Committee on the important resolution adopted at the twenty-first session of the General Assembly [resolution 2162 B (XXI)], my delegation admitted the existence of certain ambiguities in the Protocol [1461st meeting]. Consequently, we agree that it is important to dispel, as soon as the circumstances permit, any uncertainty which might continue to exist with regard to the scope of the Protocol.

11. My Government has given serious consideration to the proper and most effective procedure which could be followed in this respect. Accordingly, my delegation suggests that in due course the Protocol could best be supplemented by an additional agreement or agreements reflecting the realities of the present and anticipating future developments. But first and foremost it remains imperative that the most favourable conditions should be maintained so as to encourage all States to become parties to the Protocol. It is encouraging that certain important States are now considering or are actually taking steps to ratify or accede to the Geneva Protocol.

12. My delegation shares the opinion of those delegations which have argued that it is not within the competence of the General Assembly to attempt to interpret an existing international instrument and to declare that such an interpretation should be regarded as a rule of international law. Such an undertaking would, in our opinion and particularly in the present circumstances, be all the more hazardous since it might make it more difficult to obtain universal adherence to the Protocol.

13. It would appear that the draft declaration contains, with regard to the scope of the prohibitions embodied in the Geneva Protocol, pronouncements which are open to question. The result of the action of the General Assembly therefore, might well be that serious differences would arise between the parties and that other States would abstain from acceding to the Protocol or only do so conditionally, namely, with explicit reservations.

14. Previous speakers have already pointed out that the number of States which have so far become parties to the Protocol is still less than half the membership of the United Nations. Moreover some of these States which are parties to the Protocol are not Members of the United Nations. It would therefore appear obvious that any clarification or authoritative interpretation which might be sought can only

be obtained through a consensus consequent upon international negotiations.

15. The Netherlands Government is prepared to participate in such consultations or negotiations. We regard the Conference of the Committee on Disarmament as the most suitable forum for initiating such a dialogue. On the other hand, it would be improper for the General Assembly to try to force the issue here and now by adopting a declaration involving complex questions of the interpretation of rules of international law.

16. Apart from the fundamental principle I have mentioned, the actual text of the draft declaration also gives rise to serious reservations. As has already been noted by previous speakers, the wording constitutes in several respects a marked departure from the text of the Protocol.

17. For instance, my delegation fails to understand why the concept of "international armed conflict" was substituted for "the use in war". It is widely accepted that the humanitarian principles of the law of war also apply to internal armed conflict. In the strict sense, the term "international armed conflict" risks causing misunderstanding, an effect which I am sure is not intended, and it should therefore be avoided. In this connexion, I wish to draw the attention of the Committee to the report of the Secretary-General on respect for human rights in armed conflicts [A/7720]. Furthermore, the definition of chemical and bacteriological (biological) weapons differs noticeably from the text of the Protocol. My delegation does not contest that the definitions contained in the latter may require updating, but in this instance also the question of procedure is of importance.

18. The definitions in the operative part of the draft declaration are taken from the report of the group of experts appointed by the Secretary-General.<sup>4</sup> These definitions undoubtedly provide a valuable basis for discussion and further examination. They cannot, however, simply be imposed on the parties to the Protocol by a decision of the General Assembly.

19. This having been said it will be clear that my delegation will be unable to give its support to draft resolution A/C.1/L.489 and Add.1-3. I wish to reiterate the assurance I gave in my first intervention that my delegation is convinced of the sincerity of the motives of the sponsors of the draft resolution and the delegations which have joined them, but, weighing the grave consequences of the adoption of the declaration without the concurrence of a number of Member States, I cannot refrain from appealing with equal candour to the co-sponsors not to put that proposal to a vote.

20. My delegation is prepared to vote in favour of draft resolution A/C.1/L.498, submitted by Italy, urging all States to accede to the Geneva Protocol, and inviting all parties to consider that the prohibitions of "first use" contained therein are valid for all.

<sup>3</sup> Official Records of the Disarmament Commission, Supplement for 1969, document DC/232.

<sup>4</sup> See *Chemical and Bacteriological (Biological) Weapons and the Effects of Their Possible Use* (United Nations publication, Sales No. E.69.I.24).

21. In conclusion, I wish to express my delegation's deep satisfaction that a compromise has been reached between the sponsors of draft resolutions A/C.1/L.487, A/C.1/L.488 and A/C.1/L.491 and Add.1. It is fortunate that we now have before us a single common draft, co-sponsored by my own delegation [A/C.1/L.500 and Add.1]. Naturally, we shall be glad to cast our vote in favour of that draft resolution.

22. Mr. ROSHCIN (Union of Soviet Socialist Republics) (*translated from Russian*): The First Committee is about to take a decision on one of the most important questions before the current session of the General Assembly—the complete prohibition of chemical and bacteriological weapons. This decision is to serve as a stimulus and in part as a basis for practical action leading to the complete elimination of one type of weapons of mass destruction. The Committee has three draft resolutions before it, in documents A/C.1/L.500 and Add.1, A/C.1/L.489 and Add.1-3 and A/C.1/L.498. Draft resolution A/C.1/L.500 and Add.1, submitted by the delegations of thirty States, including nine socialist States, reflects the discussion which took place in the General Assembly once the question of chemical and bacteriological weapons had been raised by the socialist countries. In the course of that discussion here in the First Committee, the proposal of the group of socialist countries that the General Assembly at its twenty-fourth session should consider as an important and urgent question the conclusion of an international convention on the prohibition of the development, production and stockpiling of chemical and bacteriological weapons and on the destruction of such weapons was welcomed and supported by many delegations. In this connexion, my delegation wishes to express its profound satisfaction at the course taken by the discussion of chemical and bacteriological weapons.

23. It is obvious that no one doubts the need for the prompt conclusion of such a convention. Representatives agree that the General Assembly, in developing its activities with regard to chemical and bacteriological weapons, must now take a decision which would avert once and for all any danger of warfare with the use of chemical and bacteriological (biological) weapons.

24. It has also been generally agreed that measures to secure complete prohibition of chemical and bacteriological weapons must be accompanied by a further strengthening of the Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and the Bacteriological Methods of Warfare, dated 17 June 1925, *via* the adherence to the Protocol of countries not yet Parties to it and the strict observance of its purposes and principles by all States.

25. I also note with satisfaction that a majority of delegations has given high praise to the Secretary-General's report on chemical and bacteriological (biological) weapons and the effect of their possible use.<sup>5</sup> The content and conclusions of the report, in demonstrating how great a threat to mankind's future is posed by the possible use of chemical and bacteriological weapons, reaffirm once again the urgent need to prohibit not only the use of such

weapons, but their very existence. Another important conclusion which can be drawn from the Secretary-General's report and from the comments of many representatives is that questions relating to chemical and bacteriological weapons must be treated as a single problem.

26. Yet another practical conclusion which emerges from the Committee's discussion is that the General Assembly should request the Committee on Disarmament, as an important and urgent task, to work out the text of a convention on the prohibition of the development, production and stockpiling of chemical and bacteriological weapons and on the destruction of such weapons. In my delegation's view, the draft convention proposed by a group of socialist countries and contained in document A/7655 of 17 September 1969, should be used as the basis for this convention.

27. The various conclusions I have mentioned are reflected in draft resolution A/C.1/L.500 and Add.1, and my delegation trusts that this text will command broad support.

28. The First Committee also has before it draft resolution A/C.1/L.489 and Add.1-3, introduced by Sweden and a number of other States. In my view, this text is in line with earlier resolutions adopted by the General Assembly with a view to further strengthening the 1925 Geneva Protocol, and pursues the same purpose.

29. The position of the Soviet Union with regard to the 1925 Geneva Protocol is known to all. My delegation takes the view that the Protocol is an operative agreement, whose force both in political terms of international law is unquestionable. In this regard, my delegation associates itself with the explanations and arguments given by the Swedish representative yesterday on the significance of the Geneva Protocol as an agreement whose text contains generally recognized rules of international law.

30. From this standpoint and on this understanding, my delegation supports the draft resolution proposed by Sweden and twenty other countries and contained in document A/C.1/L.489 and Add.1-3, and will vote in favour of it.

31. The First Committee also has before it an Italian draft resolution on the same subject, contained in document A/C.1/L.498. In its preamble this draft resolution repeats many of the provisions contained in the other texts on this subject. However, the Italian draft resolution is less broad, and its operative part to some extent even contradicts the provisions contained in the two draft resolutions I just mentioned. This may be seen, in particular, from its operative paragraph 2, whose actual purpose is to minimize the significance of the 1925 Geneva Protocol as a generally recognized rule of international law. Adoption of the Italian draft resolution would in fact mean a negation of what is proposed in the draft resolution submitted by Sweden and twenty other States, i.e., a denial of the fact that the Geneva Protocol embodies generally recognized rules of international law. For these reasons, my delegation is unable to support the Italian draft resolution [A/C.1/L.498].

<sup>5</sup> *Ibid.*

32. Mr. LEONARD (United States of America): The problem of finding an effective and promising line of action for arms control and disarmament efforts relating to chemical and biological methods of warfare has been increasingly recognized as one of the most important and urgent problems in the disarmament field. The United States delegation is therefore particularly gratified that it was possible for our own Government to announce on 25 November a number of significant steps in this field.

33. Since Ambassador Yost has already drawn the attention of this Committee to President Nixon's announcement [*1699th meeting*], and since it has been widely commented on in the Press, I shall not at this time recapitulate the decisions. I shall only note that these decisions will materially assist us at Geneva when we resume the search for reliable arms control measures connected with chemical and biological weapons in the Conference of the Committee on Disarmament.

34. An even more recent development which we also are most gratified to note is the successful outcome of the consultations here in the First Committee regarding the proper handling by this Committee of the major proposals put forward in this field, the United Kingdom draft convention on biological methods of warfare [*A/7741-DC/232, annex C, section 20*] and the nine-Power draft on chemical and bacteriological weapons [*A/7655*].

35. As we know, wide agreement has been reached on this matter and the United States is pleased to be able to join as one of the sponsors of draft resolution A/C.1/L.500 and Add.1. I have nothing of substance to add to the very concise introduction given to the resolution yesterday by the representative of Canada, Ambassador Ignatieff [*1716th meeting*]. I shall only draw attention to the fact that its language, particularly section C, is carefully drawn to ensure that the discussion in the Conference of the Committee on Disarmament will be completely open and without prejudice in favour of or against any of the various substantive proposals which that body may wish to take up.

36. I wish that we could be equally positive about the resolution sponsored by, among others, the twelve non-aligned members of the Conference of the Committee on Disarmament, that is resolution A/C.1/L.489 and Add.1-3. Unfortunately, we cannot. The United States is compelled to oppose this resolution, the substance of which, in the light of its importance and complexity we believe should have been referred to the Conference of the Committee on Disarmament, together with the other substantive proposals concerning chemical and bacteriological warfare which have been made during our deliberations. We have two reasons for strongly opposing this resolution.

37. First, we consider it inappropriate for the General Assembly to attempt to interpret international law, as embodied in the Geneva Protocol or in any other treaty, by means of a resolution.

38. Secondly, we do not believe that the conclusion contained in the resolution regarding what is prohibited under generally recognized rules of international law, as embodied in the Geneva Protocol, can be justified.

39. With respect to the first point, I should like to point out that since its beginning the General Assembly has only in a few instances adopted resolutions which sought to affirm or declare general principles of international law, and, when it has done so, it has been in cases where there was substantial unanimity of view among its members. It would be a grave error for the General Assembly to adopt a new practice now of interpreting treaties by majority vote—a majority which might in certain cases not include important parties to the treaty being interpreted, or which might include many members of this body who were not parties to the treaty, and to abandon the sound approach to developing international law which has been followed in the past.

40. This sort of action could, in the end, tend to undermine international law and respect for the General Assembly. For the Assembly now to arrogate to itself the right to resolve by majority voting a matter of deep dispute and differing interpretation of international law would be a real disservice to the international community.

41. With respect to the second point I mentioned, that we do not agree with the interpretation which this resolution would place upon international law as embodied in the Geneva Protocol, I note that for the last forty years States have recognized the ambiguity of the Geneva Protocol, as to whether it prohibits the use of riot-control agents. They have not been able to resolve this ambiguity, despite several efforts to do so, and here we must respectfully differ with the Swedish delegation with regard to the conclusive—or we would say “inconclusive”—character of the negotiations leading up to the abortive Disarmament Conference of 1933. For if, as Ambassador Aström said yesterday of the Geneva Protocol, “States did not doubt the comprehensive nature of the ban”, one must then ask why in the years after 1925 they continued to debate it.

42. To resolve this long-standing ambiguity, the sponsors of resolution A/C.1/L.489 and Add.1-3 have taken the technical definition of chemical agents of warfare and biological agents of warfare from a report transmitted by scientific experts to the Secretary-General,<sup>6</sup> and they have incorporated those definitions in their draft resolution. The experts themselves, in formulating these technical definitions, did not maintain that they were derived from or related directly to customary international law or the Geneva Protocol, or the definition had any legal character. Since these experts were not lawyers, nor diplomats, nor did their terms of reference for their study cover legal or political elements, they limited themselves to accepting these definitions only for the purposes of their report.

43. We have examined in detail the negotiating histories of the 1899 and 1907 Hague Conventions, the Treaty of Versailles of 1919, the 1922 Washington Treaty, which never entered into force, and the 1925 Geneva Protocol, and we have concluded that the negotiating histories of these treaties support the view that riot-control agents are not covered by the Geneva Protocol, and that, accordingly, draft resolution A/C.1/L.489 and Add.1-3 incorrectly interprets the generally recognized rules of international law as embodied in the Geneva Protocol.

<sup>6</sup> *Ibid.*

44. I should be glad to make copies of our memorandum on these and other legal questions available to any delegation that may wish to have it.

45. Another legal problem which troubles us about resolution A/C.1/L.489 and Add.1-3 is that it fails to take account of the fact that many parties to the Geneva Protocol, including almost all major Powers, have entered reservations to provide that the Protocol will cease to bind reserving parties when an enemy State, or its ally, fails to observe the Protocol. These reservations have made the Protocol, in effect, a no-first use, rather than a non-use agreement, with respect to both chemical warfare and biological warfare, a fact completely ignored by the draft resolution.

46. Finally, draft resolution A/C.1/L.489 and Add.1-3 refers to the use "in international armed conflicts" of bacteriological and chemical methods of warfare, whereas the Geneva Protocol, as well as the Secretary-General in his well-known second recommendation, speaks more directly and simply of their use in war and warfare.

47. We do not know if the wording introduced in resolution A/C.1/L.489 and Add.1-3 is more restrictive or less restrictive than the familiar language of the Protocol. Presumably it is not equivalent, since there would not in that case have been any reason to alter language about which there had not been to our knowledge any long-standing dispute or ambiguity. The new language is put forward without explanation or definition, although it seems to us that the question of when—in what situation—the Protocol is to apply, and the question of what weapons it is to apply to, are of equal importance. The introduction of such ambiguity, with regard to the coverage of the Geneva Protocol, seems to us incompatible with the widely acknowledged objective of strengthening that instrument. Since chemical herbicides, unknown at the time the Geneva Protocol was negotiated, were not prohibited by that instrument, it is unwarranted for the General Assembly now to engage in lawmaking by attempting to extend the Geneva Protocol to include chemical herbicides.

48. Finally, a brief word on draft resolution A/C.1/L.498, submitted by the delegation of Italy. We understand that this resolution is to encourage wider adoption of a policy of "no first use". As this Committee knows, President Nixon has recently reaffirmed the United States policy of "no first use". We are therefore sympathetic to this objective of the Italian resolution. It seems to us, however, that it raises some complex problems of interpretation of the Geneva Protocol, which we do not believe should be interpreted by this body. Accordingly, we think it preferable that those problems should be further discussed in the Conference of the Committee on Disarmament, along with other questions related to chemical and bacteriological warfare.

49. The CHAIRMAN: The Committee will now proceed to hear the explanations of votes.

50. Mr. PORTER (United Kingdom): I should like to explain very briefly my reasons for not supporting draft resolution A/C.1/L.489 and Add.1-3.

51. In the view of my Government, the evidence must be examined with great care and caution before the existence

of a rule of international law is inferred. In the particular case before us, we do not believe that the evidence available justifies the conclusion that the generally recognized rules of international law embrace the rules set out in the operative paragraph of the draft resolution. The evidence seems to us to be notably inadequate for the assertion that the use in war of chemical substances specifically toxic to plants is prohibited by international law.

52. Furthermore, this Assembly has no *locus standi* to interpret the texts of international instruments, as this draft resolution apparently aims to do in the case of the Geneva Protocol. The meaning of the Protocol is a matter for its parties, and not all parties to the Protocol are represented in this Organization. Many Members of this Organization are still, to our regret, not yet parties to the Protocol.

53. For these reasons, we consider that the submission of this draft resolution does not fulfil its declared aim, as set out in the last preambular paragraph. On the contrary, in our view, it will regrettably tend to weaken the authority of the Geneva Protocol, to which we are a party.

54. Mr. TSURUOKA (Japan): In explaining the votes which my delegation is about to cast on draft resolution A/C.1/L.489 and Add.1-3, I shall be brief.

55. My comment concerns the reference to the Geneva Protocol, which is contained in the operative paragraph of the draft resolution. It should be pointed out that it was not possible to reach agreement in the Preparatory Commission for the Disarmament Conference of 1931 on a unified interpretation concerning the scope of the prohibition of chemical agents, particularly with respect to tear gas, in the Geneva Protocol. Since then, no attempt has been made by the parties to the Protocol to establish a unified interpretation.

56. It should also be pointed out that the membership of the United Nations does not include all the parties to the Geneva Protocol. At the same time, the membership of the United Nations does include the States which are not contracting parties to the Protocol. It goes without saying that the interpretation of an international treaty should be finalized only by agreement of the parties to the treaty. Therefore, my delegation has considerable doubts as to the legal effects of such a declaration as that envisaged by the draft resolution on the interpretation of the Geneva Protocol by the General Assembly.

57. For those reasons, my delegation will be constrained to abstain from voting on draft resolution A/C.1/L.489 and Add.1-3.

58. On the other hand, my delegation welcomes the constructive spirit in which the draft resolution submitted by thirty Powers [A/C.1/L.500 and Add.1] is formulated. My delegation supports the principles contained in that draft resolution and will therefore vote in favour of it.

59. Mr. WILLOT (Belgium) (*translated from French*): I would very briefly explain my delegation's vote on draft resolution A/C.1/L.489 and Add.1-3.

60. This text invites the General Assembly to make certain interpretations of the Geneva Protocol of 17 June 1925.



My delegation holds it to be an immutable rule of international law that the interpretation of a multilateral treaty among States, such as the 1925 Geneva Protocol, is within the exclusive province of the States parties to it. Consequently, my delegation will abstain in the vote on the draft resolution.

61. Mr. GALINDO POHL (El Salvador) (*translated from Spanish*): My delegation would like to explain its vote on draft resolution A/C.1/L.489 and Add.1-3, which is intended to interpret the Geneva Protocol of 17 June 1925. This is a technical question, specifically a legal one, which should be considered primarily on a legal basis; it is also a question which concerns the competence of United Nations organs and is therefore of the greatest interest to all delegations. When law has been consolidated in a treaty, a framework of law is created for political decisions and interests, which may then be judged and measured within that framework. It is certainly accepted in international law that practice, relating to the application of treaties, helps to clarify their scope. In this case, however, the general Assembly is not effecting a practical application of the Geneva Protocol but is being requested to issue an interpretative declaration of a general nature which, if accepted, would mean that the Protocol refers to all chemical and biological agents of warfare.

62. My country fully endorses the purpose of the draft resolution, but, as we are dealing with a matter of legal interpretation and a case which is primarily legal in nature, we should determine whether that purpose can be properly served by the draft resolution under consideration.

63. It is obvious that not all Members of the General Assembly and not all parties to the Geneva Protocol are in agreement concerning the scope of the conventional rules established therein. Accordingly, the question arises whether a majority of the Members of the United Nations or a majority of the parties to the Protocol is competent or able to give an interpretation of the Protocol that is binding on all. If the parties—I do not say the Members of the United Nations—were unanimous, it might be concluded that an informal or abridged convention had established a generally binding interpretation of the Protocol, and, if the aim were not to interpret the Protocol but to amplify its scope, such an amendment could have been made by unanimous agreement among the parties.

64. In specific cases contemporary international law does not, in fact, require many formalities to obtain the consent of the State. It is highly questionable, however, whether the General Assembly has competence, explicit or implicit, to interpret treaties. In the opinion of my delegation, it does not. Neither could it claim such competence on the basis of the so-called theory of inherent competences, which has been the force that enabled international organizations to expand and progress. And it could not claim it on the basis of that theory because such competence is expressly assigned to another organ of the United Nations.

65. It is true that the General Assembly is not expressly barred from intervening in such matters. If the General Assembly were guided by that kind of authority, there would be practically no subject it was prohibited from dealing with, but the inordinate expansion of its sphere of

activity would be accompanied by a corresponding loss of effectiveness. If the General Assembly were to adopt this resolution, its validity, its effectiveness, and even its usefulness would have to be called into question.

66. What must be decided is not only whether the scope of the Geneva Protocol covers one problem or another, but also—and this is, perhaps, much more important—whether the General Assembly can make declarations of the type that interpret treaties, treaties which have their own contracting parties and their own spheres of law and obligation. It is just this question that we must decide today.

67. Among other things, the draft resolution contains some statements which my delegation considers debatable. For example, in its preamble it states that the Geneva Protocol embodies international law—in other words, that it is simply an affirmation of *lax lata*. In the opinion of my delegation, however, the Geneva Protocol was *lex ferenda*. It established new legal rules declaring illegal the practice of using the weapons referred to, which had been developed during the First World War. It was the conscience of the world's civilized peoples that dictated the incorporation in the Protocol and in other treaties, including the Treaty of Versailles itself, of that revulsion of the human conscience from the use of such weapons. But such weapons had been used, without any prior prohibition during the First World War.

68. The draft resolution now before us seeks to dispel uncertainty concerning the scope of the Geneva Protocol. But the very existence of the draft proves that such uncertainty exists, because if there were no uncertainty, if interpretation were clear and practicable under the rules already established in international law, there would be no need to propose the draft resolution. The real question is whether this draft does in fact dispel the uncertainty or perhaps, on the contrary, simply increases it, or at least introduces a new element which might lead to a "wait-and-see" attitude or to a neglect of the necessary means for arriving at the total prohibition of chemical and biological weapons, which, as I understand it, is the common objective of all States.

69. Indeed, if this draft resolution is approved, some States might feel that there is no further need to continue exploring or establishing effective means for the total prohibition of weapons of this kind. If we wish to dispel the existing uncertainty, we must first determine whether we are dealing merely with a point of interpretation or whether our basic intention is to expand the Geneva Protocol, in other words, to bring it into line with technological developments and avert the threat posed by these weapons of war.

70. The scope of conventions and treaties cannot be expanded by interpretations; it can be expanded by means of new rules, supplementary rules. The rules agreed to by the parties are stated in the original instruments and are therefore subject to the treatment prescribed by international law. The obligations remain unchanged when they become the subject of opinions, judgements or decisions which have no competence to modify them. My delegation therefore believes that if the prohibition already exists in

the Geneva Protocol, so that the question is merely one of interpretation, then the draft submitted to us is unnecessary. On the other hand, if there is no such interpretation and the real purpose is to expand the scope of the Protocol, then this is not the proper way to do so. No provision of the United Nations Charter gives the General Assembly competence to interpret treaties. On the contrary, another organ of the United Nations—its legal organ, the International Court of Justice—has such competence under Article 36 of its Statute.

71. If the General Assembly is interested in definitely establishing whether the scope of the Geneva Protocol covers a particular subject, it can request an advisory opinion under Article 96 of the Charter and Article 65 of the Statute of the Court, and once the scope of the Protocol has been defined by an authority of the system, then if the subject is indeed covered, the matter will be completely closed, and if not, then that will be the time to enter into effective negotiations on the total prohibition of the use of chemical and biological weapons.

72. The precedents mentioned in the draft resolution in order to justify its operative paragraphs are, in the opinion of my delegation, inadequate. Interpretation is a procedure that requires the stating of specific precedents, and, in the opinion of my delegation, the draft does not adequately do this. My delegation therefore believes that the preambular paragraphs do not adequately support the effect of the operative paragraphs.

73. I am not saying that the interpretation proposed is incorrect. In other words, I am not entering into this type of discussion at all; I merely feel that the question is not dealt with in sufficient detail or handled in such a way as to sustain the proposed interpretation.

74. In fact, as I understand it, the historical interpretation, the committee debates, negotiations and the like are, in this case, fundamental to any determination of the scope of the Protocol, and there is no reference to this fact in the draft.

75. In my delegation's judgement, one of the unwritten rules of international organizations is that when competence is assigned to a particular organ, other organs must refrain from taking decisions relating to that competence, even where such decisions are not specifically prohibited. Although there is no specific rule prohibiting the General Assembly from making an interpretation, there is this implicit, unwritten rule forbidding it to do so because such competence is specifically assigned to another organ of the same system. Failure by an organ of an international organization to abide by this rule would, in the opinion of my delegation, bring more confusion than benefit. Therefore my delegation has made, and continues to make, this unwritten rule one of the guiding principles of its activity in international organizations and believes that it is thereby rendering them good service.

76. For the reasons I have given, my delegation is unable to support draft resolution A/C.1/L.489 and Add.1-3. It agrees that there should be a total ban on the use of chemical and biological weapons but feels that this objective must, in order to be sure and safe, be achieved through the procedures readily available to the United Nations and in accordance with current international law.

77. Mr. HSUEH (China): I shall explain very briefly the position of my delegation on some of the draft resolutions before us.

78. My delegation welcomes the new draft resolution contained in document A/C.1/L.500 and Add.1 concerning chemical and biological weapons which, as has already been pointed out by preceding speakers, facilitates the work of the Committee on this important and urgent question. The draft resolution as it now stands is generally in line with the position of my delegation on this question, which I made clear in my statement before the Committee on 28 November 1969 [1704th meeting], and my delegation will therefore vote in favour of it.

79. If this resolution is adopted, as it appears it will be, the Committee on Disarmament will give urgent consideration to reaching agreement on the prohibition of chemical and biological methods of warfare, taking full account not only of the draft resolutions which have been submitted but also of all other relevant proposals. It is expected that this aspect of the work of the Committee on Disarmament will result in the strengthening of the prohibition of chemical and biological methods of warfare established in the Geneva Protocol of 1925, to which my Government is a party.

80. All the problems and doubts that may have arisen from the application of the Geneva Protocol can be carefully considered and, we hope, resolved in the form of a new convention or conventions by the Committee on Disarmament in the light of the experience gained from the forty-five years of existence of the Geneva Protocol.

81. This fresh approach is, in the view of my delegation, preferable to any attempt on the part of the General Assembly to assume the role of the Parties to the Geneva Protocol and to give an interpretation of the Protocol with regard to its scope of application. Therefore my delegation believes that the draft resolution in document A/C.1/L.489 and Add.1-3 is neither necessary nor desirable. If that draft resolution is to be put to a vote, I regret that my delegation will not be in a position to support it.

82. Mr. PARDO (Malta): My delegation has no problem at all with the draft resolution contained in document A/C.1/L.500 and Add.1 and we shall be happy to vote in favour of it.

83. We have no problem either with the draft resolution contained in document A/C.1/L.498, submitted by the delegation of Italy. We shall support this draft resolution if it is put to a vote.

84. The draft resolution contained in document A/C.1/L.489 and Add.1-3 merits more detailed comment. Although it is unusual for the General Assembly to seek to legislate by declaring general principles of international law that are not widely accepted by major Member States, we are in entire agreement with the purpose of the declaration contained in this document.

85. We have, however, some difficulty with certain of the preambular paragraphs of this draft resolution. The fourth preambular paragraph is a rather selective listing of events;

this may be justified in the circumstances, and we shall not comment any further on this point. We cannot, however, support the fifth preambular paragraph, not because we disagree with it, but because there are grave inaccuracies of a factual nature in this paragraph. The Geneva Protocol does not speak of “international armed conflicts” but of war and warfare. The word “warfare” does not mean the same thing as “international armed conflict”. Furthermore, it is controversial whether the asphyxiating, poisonous and other gases and bacteriological methods of warfare referred to in the 1925 Geneva Protocol really include all biological and chemical methods of warfare regardless of any technical development. We feel that it would be highly improper for the General Assembly to go on record as recognizing something which is factually incorrect and to imply that there is unanimous recognition of something that is controversial.

86. The fifth preambular paragraph is not essential to the purpose of the draft resolution, and we would earnestly appeal to the sponsors to delete this paragraph. If that is not possible, we shall be obliged to request a separate vote on this paragraph and my delegation would regretfully be obliged to review its position on the draft resolution as a whole should the paragraph be retained.

87. As a consequence of the deletion of this paragraph, should the deletion be accepted, we would expect the substitution of the words “principles and objectives” instead of the word “rules” in the seventh preambular paragraph, the “principles and objectives”, of course, being those of the 1925 Geneva Protocol, which is referred to in the fourth preambular paragraph.

88. As I stated, while my delegation strongly favours the purpose of the declaration contained in the operative paragraph of the draft resolution, we must also express our opinion that the wording of this paragraph could be very substantially improved. Instead of the term “international armed conflicts”, which really has no recognized legal meaning in the field of chemical and biological weapons, we would prefer the term “with hostile intent”. Also, we note that the definition that has been adopted in this paragraph with regard to chemical agents of warfare does not include substances that are neither gases, nor liquids, nor solids, but participate of the nature of all three.

89. The definition relating to “biological agents of warfare” refers exclusively to “living organisms”. I understand that there is some question whether viruses are living organisms.

90. On the whole, we feel that the proposed declaration would have been considerably improved had it been considered by the Committee on Disarmament before being submitted to us. If it was really necessary to submit it now, we would have preferred a simple declaration predicated on the nature of the weapons in question rather than a declaration preceded by a highly misleading preamble.

91. With all its defects and limitations, this draft resolution does tend to increase constraints on the use of chemical and biological weapons and we are therefore ready to support it, subject to the changes that we have suggested particularly the deletion of the fifth preambular paragraph.

92. Mr. SCOTT (New Zealand): The New Zealand delegation wishes to explain the vote it is about to cast on the draft resolution contained in document A/C.1/L.489 and Add.1-3, sponsored by several countries but principally introduced and proposed by the delegation of Sweden.

93. New Zealand will abstain in the vote on this draft resolution. Our reasons for abstaining are substantially those already expressed by a number of other delegations; I shall not go into them in detail.

94. Let me emphasize the fact that my delegation understands and sympathizes with the broad humanitarian aims underlying the draft resolution. We have, however, very grave doubts indeed as to whether this method of achieving the desired result is the best one, either generally or at the present juncture.

95. We have many doubts on legal grounds. I shall not elaborate these doubts, but they stem from two central issues. The draft resolution purports to be merely interpretative or explanatory of the 1925 Geneva Protocol. Yet anybody reading the draft resolution sees that it is at least in part a very significant addition to that Protocol and not a mere clarification of it. Furthermore, the 1925 Protocol is a treaty in force. The proposed General Assembly resolution will not be a treaty; the draft resolution cannot, of course, amend the treaty and what its juridical effect will be is anybody's guess. At best, it must add only doubt and confusion.

96. In the view of my delegation, that result would be a most unfortunate one. Any blurring of State obligations and rights in a serious matter of humanitarian concern is regrettable. Any instant law-making—domestic or international—is a hazardous and makeshift expedient. In our view—and this circumstance has arisen on a number of occasions in the Assembly in recent years—the Assembly has a duty to proceed very carefully indeed on any question affecting the development of the laws of war or of international criminal law.

97. If it is desired to add to the 1925 Protocol in any way, then that objective should be secured by the proper means by developing a treaty either to amend or to replace the Geneva Protocol. For that task, adequate, though not necessarily prolonged, preparation would be needed. We certainly do not support the notion that we can do this by taking a little thought in the First Committee in the course of a debate in which we are all preoccupied with a variety of other matters and when many of us—certainly those of us who are not members of the Conference of the Committee on Disarmament—have not had the opportunity of examining the question to the degree it deserves. Furthermore, we do not support the school of thought which seems to hold that a General Assembly resolution can achieve anything anywhere at any time.

98. It would also, we think, be doubly unfortunate if a draft resolution of this type were to be adopted at a point when more than one country may be about to become an important party to the Geneva Protocol. There is every risk that these moves will be complicated and retarded by the present draft resolution. If that is the case, then we shall end up with the worst of both worlds. We shall have neither



more parties to the Protocol nor any more certain body of international law on the question of the use of chemical and other weapons.

99. The view of the New Zealand delegation on what should be done in this context is not negative. We are a co-sponsor of the revised draft resolution contained in document A/C.1/L.500 and Add.1, which sets out a programme of work having aims of the kind which the Swedish draft resolution would like to achieve. Document A/C.1/L.500 and Add.1 sufficiently indicates our attitude, which is that the Conference of the Committee on Disarmament should be asked to present a report on progress on all aspects of the problem of the effective elimination of chemical and biological weapons in the light of the Secretary-General's report on the subject.<sup>7</sup> It is sufficiently evident, both from this draft resolution and from the debate in the First Committee, that this course is desired by the majority of members of this Committee and that the Conference of the Committee on Disarmament would shape its priorities accordingly.

100. For reasons similar to those I have already mentioned, the New Zealand delegation will also abstain in the vote on the Italian draft resolution contained in document A/C.1/L.498, which also seeks to have an operative effect upon the 1925 Protocol.

101. Mr. BRUM (Uruguay) (*translated from Spanish*): We shall be very brief because we feel that all the arguments for and against draft resolution A/C.1/L.489 and Add.1-3 have already been stated in the debate.

102. Although it agrees with the substance of the draft, our delegation will abstain in the vote because we have reservations about the text from the legal point of view; our main objection is that we do not think it right to introduce amendments or modifications into a treaty by means of a declaration.

103. Mr. LEONARD (United States of America): From the comments we have heard here this morning, it is clear that a substantial number of delegations, including the representatives of quite a number of the original signatories of the Geneva Protocol, cannot support draft resolution A/C.1/L.489 and Add.1-3. If the sponsors of this draft resolution insist upon pressing it to the vote, the United States will vote against it. In accordance with rule 128 of the rules of procedure, we request that the vote should be taken by roll-call.

104. I should, however, like to make a last-minute appeal to the sponsors of this draft resolution not to press for a vote, but rather to heed the appeal made by a number of delegations to refer the substantive problem to the Conference of the Committee on Disarmament, in view of the serious doubts that have been widely expressed today with regard both to the substance of this draft resolution—since it appears that it does not accurately reflect the present admittedly unsatisfactory state of international law as embodied in the Geneva Protocol but might even weaken that instrument—and to the constitutional problem in-

involved in attempting, by a majority vote in this body, to settle a legal treaty question of deep dispute.

105. Mr. BAROODY (Saudi Arabia): I should like to say that I am prepared to vote for every draft resolution—whether weak or strong—which bans the use of chemical and bacteriological warfare. There should be no compromise whatsoever in this Committee on the employment of chemical, biological or bacteriological weapons, as they are sometimes called. All such weapons without exception should be banned. We cannot rationalize our stand by quibbling on certain legal phraseology, or hide behind so-called international law and the constitutional aspects of that law. If we do we shall always be able to find excuses for being inhuman and for setting aside something which the conscience of man—let alone deliberations in the United Nations—forbids.

106. Furthermore, the prohibition of such weapons in stages should be decried. Since 1945 we have heard the words “phasing” and “phasing out” used in connexion with certain troops or certain weapons. There is a catch in that “phasing out” process; it is an excuse for maintaining certain weapons as long as their use is in the interest of a given State.

107. Just as President Nixon, by a mere stroke of the pen wisely prohibited the use of bacteriological or biological weapons, so should stockpiles of chemical weapons be destroyed by all who have them in their arsenals. I would go further: they should not even be manufactured, let alone stockpiled. I say this advisedly, because thousands of chemists are employed in devising new lethal weapons of that nature.

108. The Geneva Protocol is unequivocal in considering the use of all poison gases and toxic chemical agents to be prohibited. From when I was young I remember, the name of Mr. Noel-Baker, who was associated with the League of Nations. Quite recently, he sent a letter to one of this country's newspapers, making the position of all States members of the League of Nations clear as to the definition of “chemical weapons”. Mr. Noel-Baker must now be in the seventh or eighth decade of his life. He found it was necessary to come out and say that there was no ambiguity about burning all chemical weapons. I go further than Mr. Noel-Baker. I shall not be long because I know that we shall all be voting shortly. I wish to mention a particular gas which is currently being used in many countries, namely tear gas, which is used inhumanly for breaking up demonstrations. Of course, here we are discussing the question of disarmament, the international aspect of these weapons but we should not neglect or ignore the covenants of human rights or the Universal Declaration of Human Rights, which in its third article states that “everyone has the right to life, liberty and security of person”. We should at some time in the future go further than prohibiting or trying to prohibit the use of chemical weapons among nations. They should be banned inside every State, even tear gas should be banned.

109. Ali Bin Abi Taleb, one of the caliphs of Islam, said: “As you are”, addressing the people—meaning the quality of the people—“so would be your Government.” I think that there is an English version of that thought: the people

<sup>7</sup> *Ibid.*

get the Government they deserve. In those circumstances, if conventional means are not enough and tear gas or any similar gas is used to disperse crowds, then the Government had better fold up and dissolve.

110. I have had very little time to study these draft resolutions as I should. However, I shall close by repeating what I said in my opening remarks, that I see no reason why we should not support any draft resolution, weak or strong. I must say that I had an opportunity of studying cursorily draft resolution A/C.1/L.500 and Add.1 and I would say that despite its loopholes I would vote for it. On the other hand, I do not know what decision has been taken on the merger of draft resolution A/C.1/L.491 and Add.1 and A/C.1/L.500 and Add.1 and I support wholeheartedly draft resolution A/C.1/L.491 and Add.1. I would even support the Italian draft resolution [A/C.1/L.498], unless, of course, my colleague from Italy would like to merge that draft resolution with the other draft resolutions. We should have had one strong draft resolution and if anyone wanted to weaken any one of those resolutions he could delete his name from the list of sponsors. We do not need so many names to a draft resolution. The yardstick should be the justice of banning chemical and bacteriological warfare. One last word: I hope that in the future the United Nations will consider the use of any gas or germ as a criminal act. We have only to read the report of the Secretary-General<sup>8</sup> to see the implications of the use of chemical and bacteriological warfare.

111. After this Committee disposes of the item before it by a final vote, I hope that whatever we decide will be a stepping stone towards further action, if not in this Committee then in the Third Committee, which deals with the rights of the individual rather than international relations among States in respect to armament or disarmament. We should take action in one organ of the General Assembly to spell out clearly and unequivocally, as we have done in regard to many conventions and covenants, that he who perpetrates war of such a nature should be declared a war criminal.

112. Mr. KARASIMEONOV (Bulgaria) (*translated from French*): I shall be very brief. My delegation explained its position on the question of chemical and bacteriological weapons in the course of the general debate [1711th meeting]. At that time, it stated clearly and unambiguously that it endorsed the conclusions and recommendations contained in the Secretary-General's report.

113. True to this position of principle, my delegation, together with the delegations of other socialist countries, submitted a draft convention on the prohibition of the development, production and stockpiling of chemical and bacteriological weapons [A/7655]. I am pleased that the great majority of the delegations which spoke in the debate supported the basic idea in that draft, more particularly, the idea that chemical and bacteriological weapons should be dealt with in a single convention, calling for their total and final prohibition.

114. For this reason, my delegation supports the spirit and provisions of draft resolution A/C.1/L.500 and Add.1, which it is now co-sponsoring.

115. My delegation has always been in favour of any action to strengthen the Geneva Protocol. It therefore supported the Secretary-General's recommendations that the Protocol should be reinforced, first, through accession to it by all States not yet parties to it and, secondly, by reaffirming its spirit and its fundamental ideas which have become generally accepted rules of international law. These rules are once again repeated in the report and the recommendations of the Secretary-General.

116. For this reason, my delegation is in favour of the purposes and ideas set out in draft resolution A/C.1/L.489 and Add.1-3, submitted by Sweden and other countries. It believes that a declaration by the General Assembly confirming the generally accepted rules of international law as set out in the Geneva Protocol is wholly appropriate and would strengthen that instrument.

117. In that connexion, I am grateful to the Swedish representative for having presented a convincing argument yesterday [1716th meeting] in favour of that proposal and for having drawn attention to a report of the World Health Organization on the effects of chemical and bacteriological weapons on human health, a report which generally confirms the conclusions reached in the Secretary-General's own report.

118. Consequently, the Bulgarian delegation will vote in favour of draft resolution A/C.1/L.489 and Add.1-3.

119. Mr. HAYMERLE (Austria): I shall be very brief. We have listened with the greatest attention to the statements which have been made during the debate in favour of the draft resolution before us [A/C.1/L.489 and Add.1-3] and especially to that made by the representative of Sweden, Ambassador Aström, when he introduced the text yesterday [1716th meeting]. We appreciate the motives that have inspired the delegations sponsoring the resolution, we fully share their desire to prevent the use in international armed conflicts of any chemical or bacteriological (biological) means of warfare.

120. We feel, nevertheless, that it would be difficult for the Austrian delegation to go along with the proceedings suggested in the draft resolution before us. First, we have doubts on legal grounds as to extensive interpretations through resolutions by the General Assembly of existing legal instruments; and, secondly, we believe that the most effective way to achieve our common objective would be to proceed in two stages. It seems to us imperative in the first place, to obtain universal acceptance of the 1925 Geneva Protocol.

121. As we said in our statement in the general debate [1705th meeting], we see encouraging indications in that respect and recall, in particular, the statement made by the President of the United States on 25 November. We believe, therefore, that at this time we should do everything to encourage all countries which have not yet ratified the Geneva Protocol to do so, and we should refrain from any action which would make it more difficult for any of these countries to accede to the Geneva Protocol as soon as possible.

122. In our opinion the Geneva Protocol is an essential first step; additional and stronger agreements ensuring the

<sup>8</sup> *Ibid.*

elimination of all chemical and bacteriological weapons will, we hope, be elaborated in the near future. Our policy in this matter is reflected in my statement of 1 December [1705th meeting] when I expressed the hope that the Conference of the Committee on Disarmament would succeed in elaborating and submitting to the twenty-fifth session of the General Assembly a draft convention on the total elimination of all chemical and bacteriological (biological) weapons.

123. It is with these considerations in mind that my delegation will abstain from voting on draft resolution A/C.1/L.489 and Add.1-3.

124. Mr. LEONARD (United States of America): A few moments ago a question was raised by the representative of Saudi Arabia concerning a statement which appeared in the newspapers here: a letter written by Mr. Philip Noel-Baker who was a principal participant in the negotiations in the twenties and thirties during which time the Geneva Protocol was written and an attempt was made to interpret it.

125. In this letter Mr. Noel Baker indicates that of those members of the Commission who spoke in the League of Nations Preparatory Commission for the Disarmament Conference in 1930, only the United States delegate voiced any opposition to the United Kingdom's position that tear gas was prohibited. Furthermore, Mr. Noel-Baker says that in the later stages of the Conference of 1932 and 1933<sup>9</sup> the United States delegate, Hugh Wilson, declared that the United States Government agreed that the use of all tear gases was banned in international law.

126. As was recognized by Mr. Noel-Baker, in 1930 Hugh Gibson, the United States delegate to the Preparatory Disarmament Commission, did not accept the view that the Geneva Protocol prohibited the use in war of tear gas. The statement in 1933 by Hugh Wilson, the United States representative to the Conference in 1932 and 1933 was made in a different context. On this latter occasion consideration was being given to the preparation of a new comprehensive disarmament treaty—a treaty for the limitation and reduction of all armaments.

127. The United States representative on that occasion agreed with the view that under this new treaty which was discussed, but never finally agreed upon, the use of tear gas in war should be prohibited. This discussion was not directed at the Geneva Protocol which has been the subject of our debate this morning.

128. I would agree most heartily with a principal point made by the representative of Saudi Arabia: that there should be one strong resolution on the subject before us. It is our belief that resolution A/C.1/L.500 and Add.1 is such a strong comprehensive resolution and we are pleased to be among its sponsors.

129. Mr. AKWEI (Ghana): I very much appreciate being given the floor. I shall be brief. In fact, it had not been my intention to speak this morning, but after listening to the many statements which have been made I was rather alarmed at the number of delegations which have spoken

with some reservation on the draft resolution contained in document A/C.1/L.489 and Add.1-3. I was particularly worried by what the representative of the United States said, that since so many of the original parties to the Geneva Protocol had taken this position of reservation, he would appeal to the co-sponsors not to press the resolution to a vote.

130. It seems to me perhaps that if the other members of the Committee have not spoken it is not because they are not enthusiastic about the resolution which was so ably introduced by the representative of Sweden, and for lack of support what might turn out to be the silent majority was erroneously being considered the minority.

131. My delegation would have very little difficulty in supporting the draft resolution contained in A/C.1/L.489 and Add.1-3. We have listened carefully to the many statements made and the reasons given which make it difficult for some delegations to support the resolutions, but we have not been convinced. These reasons appeared to us to be of a rather legal and procedural nature.

132. We have been told that the Geneva Protocol exists; a Treaty is already in force and it would be *ultra vires*, as it were, for the General Assembly to try to add anything to that treaty or change the treaty. We have also been told—and I listened to the representative of Malta with interest when he said it—that viruses could not even be defined; that we could not be sure whether they were solid or liquid or this or that. My delegation is practical in these matters and we prefer to go by what we are seeking to prevent, what is the aim, rather than what we have been able to define before we reach the goal. We would hope that everyone would agree that as has been evidenced by the report submitted by the Secretary-General, these chemical and bacteriological weapons are so horrendous that any declaration which the General Assembly could make and which would help in abolishing or banning the use of these terrible weapons of mass destruction would be a move in the right direction.

133. I do not think that we have to define what a virus is before we move to ban the use of viruses which are so dangerous and destructive to human life. In fact, in many areas of knowledge we do not know definitively the basic tools we are using before actually using them. In physics I understand that the experts do not yet know the proper definition of neutrons or quasars, and yet these instruments are used in the study of physics. In philosophy we have not been able to define many things, simple things like a table, and yet we all eat and write at tables. We do not proceed from a necessity to define things specifically before we talk significantly about them or use them. What is at stake here is the protection of ordinary human beings from the terrible effects of the use of bacteriological and chemical weapons.

134. Surely if the General Assembly can make a declaration which could be taken note of by the Members of the Organization—or by States outside the Organization—parties to the Geneva Protocol, in either amending the terms of the Protocol or improving the terms of the Protocol, or changing the terms of the Protocol, surely that would be within the competence of the General Assembly.

<sup>9</sup> Conference for the Reduction and Limitation of Armaments.

I do not agree with the members of the Committee who argue that because this machinery already exists in the Geneva Protocol and the treaty is in force, the General Assembly has no responsibility at all. We are here to reflect the common concern of ordinary human beings around the world.

135. Even if we cannot legislate for the world we can make declarations which can be taken note of by those parties to a treaty which in turn can make the necessary changes in the treaty. After all, when we had the debate on the Treaty on the Non-Proliferation of Nuclear Weapons here some time ago we were able to secure some minor changes in the Treaty. We did not have to refer the Treaty back to the Disarmament Conference at Geneva. We were able to win certain minor concessions, even though they were minor. If we were to follow this legalistic and procedural argument that we should always refer everything back to its original organ I doubt very much whether this Organization would be able to make any headway at all in reflecting the common concern of ordinary human beings everywhere. We believe that the General Assembly can be an organ both of prime instance as well as of last resort, and that the General Assembly in making any declaration on this matter would be acting strictly within its field of competence.

136. I should therefore like to announce that my delegation will vote whole-heartedly in support of the resolution. There may perhaps be some minor changes which can be taken care of as a result of the suggestions which have been made by the representative of Malta, but this is for the sponsors to say.

137. I should like to take this opportunity of congratulating the representative of Sweden, as well as the other sponsors, for bringing to the attention of the Committee an issue which is of such direct concern to ordinary human beings everywhere, and I hope this will be widely supported both here and in the General Assembly.

138. The CHAIRMAN: I should now like to inform the Committee that Mauritius has joined as a co-sponsor of draft resolution A/C.1/L.500 and Add.1.

139. Before I ask the Committee to proceed to a vote I shall give the floor to the representative of Italy, on a point of order regarding the conduct of voting.

140. Mr. VINCI (Italy): My delegation has been requested by several delegations to reconsider our position and not to press to a vote our draft resolution contained in document A/C.1/L.498.

141. I should first like to thank very warmly those delegations which have supported this resolution of ours, particularly the representatives of Malta and Saudi Arabia, and the appreciation which has been addressed to our delegation by other delegations.

142. My delegation will accede to these requests as well as to the appeal which has been made this morning to the same effect. We do so as we are convinced that draft resolution A/C.1/L.500 and Add.1, for which we congratulate the sponsors, is the best and most constructive step our

Committee can take at this stage of our deliberations on the subject of chemical and bacteriological (biological) weapons. My delegation will support and vote for that draft resolution.

143. It is our understanding that once adopted, as we are confident it will be, in accordance with paragraphs 1 and 2 of that draft resolution the Italian proposal will be considered together with other relevant proposals by the Conference of the Committee on Disarmament. We hope that our decision will help in keeping all members of our Committee united in our joint efforts towards disarmament, particularly on a question of weapons which give rise to so many concerns and emotions. We hope especially that our decision, which we do not take lightly, will encourage the sponsors of draft resolution A/C.1/L.489 and Add.1-3 to reconsider their position and to give an equally positive response to the appeal which has been addressed to them.

144. The CHAIRMAN: In view of the statement which has just been made by the representative of Italy, the Committee will only vote on the two draft resolutions contained in document A/C.1/L.489 and Add.1-3 and A/C.1/L.500 and Add.1.

145. I give the floor to the Secretary of the Committee in order that he may make a statement on the financial implications of draft resolution A/C.1/L.500 and Add.1.

146. Mr. CHACKO (Secretary of the Committee): Under the terms of paragraph 2 of part B of the draft resolution contained in document A/C.1/L.500 and Add.1, the General Assembly would request the Secretary-General to publicize the report entitled *Chemical and Bacteriological (Biological) Weapons and the Effects of Their Possible Use* in as many languages as is considered desirable and practicable, making use of the facilities of the United Nations Office of Public Information. The text of the report has already been issued in popular format as a United Nations sales publication and for official distribution purposes in English, French, Spanish and Russian. Sufficient copies of the report in these languages are available to meet the distribution requirements of the Office of Public Information. It is intended to publish the report in certain additional languages at an estimated cost of \$14,300.

147. The CHAIRMAN: A roll-call vote has been requested by the delegation of the United States on the draft resolution contained in document A/C.1/L.489 and Add.1-3. The representative of Malta has requested a separate vote on the fifth preambular paragraph of that draft resolution. I shall therefore request the Committee to vote first on the fifth preambular paragraph of draft resolution A/C.1/L.489 and Add.1-3.

*The fifth preambular paragraph of draft resolution A/C.1/L.489 and Add.1-3 was adopted by 57 votes to 10, with 24 abstentions.*

148. The CHAIRMAN: I now invite the Committee to vote on the draft resolution A/C.1/L.489 and Add.1-3 as a whole.

*A vote was taken by roll-call.*

*Turkey, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia, Afghanistan, Algeria, Argentina, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Central African Republic, Ceylon, Costa Rica, Cuba, Cyprus, Czechoslovakia, Ethiopia, Finland, Ghana, Guatemala, Hungary, India, Indonesia, Iran, Ireland, Ivory Coast, Jamaica, Kenya, Kuwait, Lesotho, Libya, Maldives, Mali, Mauritius, Mexico, Mongolia, Morocco, Nepal, Niger, Nigeria, Pakistan, Peru, Poland, Romania, Saudi Arabia, Senegal, Somalia, Spain, Sudan, Swaziland, Sweden, Syria, Trinidad and Tobago.

*Against:* United States of America, Australia, Portugal.

*Abstaining:* Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Austria, Belgium, Cameroon, Canada, Chad, Chile, China, Denmark, El Salvador, France, Gabon, Greece, Guyana, Iceland, Israel, Italy, Japan, Laos, Liberia, Luxembourg, Madagascar, Malaysia, Malta, Netherlands, New Zealand, Norway, Philippines, Rwanda, Singapore, South Africa, Thailand, Tunisia.

*Draft resolution A/C.1/L.489 as a whole was adopted by 58 votes to 3, with 35 abstentions.*

149. The CHAIRMAN: I invite the Committee to vote on the draft resolution contained in document A/C.1/L.500 and Add.1. The delegation of Finland wishes to be added as a co-sponsor of this draft resolution.

*Draft resolution A/C.1/L.500 and Add.1 and 2 was adopted by 97 votes to none.*

150. The CHAIRMAN: The Committee will now hear those representatives who wish to explain their votes.

151. Mr. YANGO (Philippines): The Philippines is against the use, development, production and stockpiling of chemical and bacteriological (biological) weapons; hence my delegation voted in favour of the resolution contained in document A/C.1/L.500 and Add.1 and 2.

152. However, we were constrained to abstain in the vote on the resolution contained in document A/C.1/L.489 and Add.1-3 for the simple reason that the Philippines is not yet a party to the Geneva Protocol of 17 June 1925. My delegation holds the view that only parties to the Protocol are called upon to interpret its provisions. We have therefore reserved our position on the scope and application of the Protocol until the Philippines has formally acceded to it.

153. Mr. PARDO (Malta): My distinguished friend from Ghana misunderstood me. I mentioned the question of viruses in connexion with the possible improvement of the definition of biological agents of warfare. This definition, even as it stands, does not present a major difficulty for us. We stated that we would be prepared to support the resolution contained in document A/C.1/L.489 and Add.1-3 if our suggestions were taken into account. Our

objections centred around the misleading nature of the fifth preambular paragraph, which is factually incorrect. I am sorry that the sponsors did not take these objections into account because they were very well founded.

154. Mr. MORTENSEN (Denmark): My delegation abstained in the vote on the draft resolution contained in document A/C.1/L.489 and Add.1-3 on legal grounds. We cannot accept the concept on which the resolution is based, namely, that there exist generally recognized rules of international law according to which the prohibition in the 1925 Geneva Protocol is total. Such a concept implies that there is a general, long-standing, well-established practice, as well as a legal conviction, that the resulting conduct manifested by action or inaction is legally binding; that is to say, there exists an *opinio juris*. Today's vote has proved that this is not the case. In the present situation, moreover, we consider it advisable to refrain from any action that might render it difficult for important nations to accede to the 1925 Geneva Protocol.

155. Having said this, I wish to add that my Government is generally in favour of making the prohibition against chemical and bacteriological weapons as comprehensive as possible.

156. Mr. CUHRUK (Turkey) (*translated from French*): My delegation abstained in the vote just taken on draft resolution A/C.1/L.489 and Add.1-3 concerning the 1925 Geneva Protocol, and I should like to explain briefly why it did so.

157. In its statement on the problem of disarmament [1703rd meeting], my delegation said that it was prepared to support any effort to strengthen the Protocol as an international instrument. It examined the draft resolution submitted by Sweden and other countries from that viewpoint.

158. One way of strengthening the Protocol would of course be to increase the number of States parties to it. Another way would be to clarify it, both as regards the kind of obligation it imposes and the extent of that obligation, in order to remove some differences of interpretation. The draft resolution pursued that very purpose. My delegation was therefore in agreement with it up to that point; it did not, however, agree with the method or procedure advocated, i.e., interpretation by a declaration on the part of the General Assembly. My delegation feels that the obligations imposed by the Protocol, because of the reciprocity required, can be interpreted validly and legally only by the States which are now parties to it.

159. My delegation also felt that, because the interpretation procedure proposed in the draft resolution would call forth additional reservations and give rise to further uncertainty, it would weaken the appeal of the General Assembly that States should strictly observe the principles and purposes of the Geneva Protocol.

160. For these reasons, my delegation was obliged to abstain during the vote. Without prejudice to what I have just said, my delegation agrees that the obligation imposed by the Geneva Protocol is extensive in scope.



161. Mr. PILAVACHI (Greece): I wish to explain the vote cast by my delegation on draft resolution A/C.1/L.489 and Add.1-3. Greece has signed and ratified the Geneva Protocol of 1925. The Geneva Protocol is an important international document and we do not consider it appropriate that it should be weakened in any way by interpretations in this forum. That is why, representing a country signatory of the Geneva Protocol and without disputing the humanitarian motives of the sponsors of this draft resolution, my delegation considered it proper to abstain in the vote on draft resolution A/C.1/L.489 and Add.1-3 on legal grounds. My delegation voted in favour of draft resolution A/C.1/L.500 and Add.1 and 2, thus indicating our desire to see the strengthening of the Geneva Protocol and to encourage progress in reaching a solution to the problem of eliminating chemical and bacteriological weapons by accord and strict international control.

162. Mr. VINCI (Italy): I wish, in a few words, to explain the vote of our delegation on resolution A/C.1/L.489 and Add.1-3. The Italian delegation abstained on that resolution, not because we do not agree with the general purposes of that resolution, but because we believe that those purposes can best be attained by a more gradual and realistic approach, such as the one in the proposal which we submitted.

163. The result of the vote confirmed, in our view, that there is not that universal basis of agreement which would have been necessary in order to achieve the far-reaching aims of the draft resolution.

164. At the same time, my delegation shares the reservations of a legal nature which have been so appropriately expressed by many other delegations, in particular concerning the competence of the General Assembly to establish what is international law.

165. Mr. AGUILAR (Venezuela) (*translated from Spanish*): My delegation merely wishes to state that although, for reasons beyond its control, it was not present during the vote on draft resolution A/C.1/L.489 and Add.1-3, it would have abstained if it had been present, not because of my disagreement with the very laudable objectives of the draft but purely and simply because it believes that the formula established in the draft is inappropriate and may create a dangerous precedent.

166. We believe that there are other formulae better suited to achieving this objective, but as we did not have time to consult or negotiate with the sponsors concerning an amendment to the last operative paragraph, we must state that our position on the draft would have been abstention.

167. Mr. MAURTUA (Peru) (*translated from Spanish*): I should like to say just a few words about the Peruvian delegation's abstention on the fifth preambular paragraph of draft resolution A/C.1/L.489 and Add.1-3. We had some doubts concerning the definition or position of the preambular paragraph concerning the attempt in the text to recognize certain legal elements contained in the Geneva Protocol of 1925 as rules of international law. These doubts related specifically to the definite article "the" in the phrase "the . . . rules of international law".

168. We feel that theoretical elements cannot be given the status of rules of international law unless some work of examination, clarification or formulation has been done by competent organs at the appropriate time. Our vote for the draft was, therefore, based on the interpretation that the preamble implied a reference to the rules contained in the Geneva Protocol and only to them.

*The meeting rose at 1.20 p.m.*