Thirty-eighth session
Item 61 of the preliminary list*

CHEMICAL AND BACTERIOLOGICAL (BIOLOGICAL) WEAPONS

Letter dated 26 August 1983 from the Permanent Representative of France to the United Nations addressed to the Secretary-General

France has learned with regret of the letter dated 30 March 1983 (A/38/131) in which the Soviet Union informed you that, as far as it was concerned, it did not intend to carry out the recommendations contained in General Assembly resolution 37/98 D of 13 December 1982, on provisional procedures to uphold the authority of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, which was signed at Geneva on 17 June 1925.

France deplores this position all the more strongly in view of the fact that, as the General Assembly itself has acknowledged, the sponsors of resolution 37/98 D, France among them, specifically emphasized that such arrangements are motivated primarily by a desire to uphold the authority of the Geneva Protocol, thereby helping to reaffirm the prohibitions which the Protocol imposes on the use in war of the substances enumerated therein.

As the preambular and operative parts of the resolution itself state, no attempt is being made to provide a permanent, complete and final solution to the problem of verifying violations of the Geneva Protocol. Thus, in the words of the resolution, the Assembly believes that it would be "conducive to the continued authority of the Protocol that, pending eventual formal arrangements, procedures be established to make possible the prompt and impartial investigation of information concerning possible violations of the provisions of the Protocol." As is generally known, and as the fourth preambular paragraph of the resolution indicates, negotiations are currently being conducted within the Committee on Disarmament with

* A/38/150.
a view to formulating a convention on the prohibition of chemical weapons, which
should contain provisions to ensure its effective verification.

In this respect, France, like the Soviet Union, is in favour of making any
provisions regarding verification that might be approved applicable to verification
of alleged uses of substances prohibited under this convention.

However, given the complex nature of the problems at issue, it may be some
time before the negotiation of such a convention is concluded. Moreover, it seems
unlikely, for various reasons, that the number of States which will accede to the
new convention in the first few years will equal the number of States parties to
the 1925 Protocol.

Resolution 37/98 D is in no way intended to amend or modify the Geneva
Protocol or relevant international practices. It does not confuse, as the Soviet
position appears to do, treaty relationships, in which the commitments of parties
to the Protocol are exercised, with the specific jurisdiction of the United
Nations, which forms the basis of resolution 37/98 D.

It is quite clear both from the provisions of Article 11 of the Charter and
from practice that the General Assembly can indeed make recommendations regarding
disarmament and the regulation of armaments.

It follows that the General Assembly can, subject to the conditions laid down
in Article 98 of the Charter, entrust the Secretary-General with specific functions
within the framework thus established.

In any event, the USSR itself has, in the past, taken the initiative in
bringing matters before international bodies with a view to instituting an inquiry
into alleged violations of "elementary principles of morality and humanity". On
14 March 1952, for example, when there were allegations that bacteriological
weapons were being used in Asia, the representative of the Soviet Union in the
Disarmament Commission suggested that the Commission should deal with the question
of the violation of the ban imposed by the Protocol of 17 June 1925. Again, on
22 March and 23 April 1963, the Soviet Union invited the United Kingdom of Great
Britain and Northern Ireland to join with it in addressing a request, as
Co-Presidents of the 1954 Geneva Conference, to the International Control
Commission to start an investigation into the use of toxic chemical substances in
South-East Asia.

In both cases, the USSR's request for an investigation involved the alleged
use of chemical or bacteriological weapons by a country which, at the time, had not
yet signed the 1925 Protocol. Obviously, the USSR did not then feel that such
investigations would lead to a "review" of the Geneva Protocol.

Against that background, the reasoning used by the USSR to maintain that
resolution 37/98 D is illegal does not carry conviction.

It should also be pointed out that, contrary to what is said in the letter
which the Soviet Union wrote to you on 30 March 1983, resolution 37/98 D in no way
constitutes a decision, since it imposes no obligation on Member States. Its
purpose is to enable interested Member States to obtain assistance from the United Nations and, in so far as they are competent, some specialized agencies, on the basis of co-operation between States, in order to establish the veracity of any allegations that may be made concerning the use of chemical, biological and bacteriological weapons.

As both a State party to and the sole depositary of the 1925 Geneva Protocol, France is particularly eager to associate itself with any procedure aimed at ensuring that the Protocol is effective, while respecting the rights and obligations of all the parties.

France is therefore prepared to contribute to the best of its ability to the efforts to provide assistance which, in accordance with resolution 37/98 D, would be undertaken at the request of interested States.

I should be grateful if you would arrange for this letter to be circulated as an official document of the General Assembly under item 61 of the provisional agenda.

(Signed) Luc de LA BARRE de NANTEUIL