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UNITED NATIONS CONFERENCE ON PROHIBITIONS OR RESTRICTIONS OF  
USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED  
TO BE EXCESSIVELY INJURIOUS OR TO HAVE  
INDISCRIMINATE EFFECTS

Second session

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,  
on Friday, 19 September 1980, at 3 p.m.

Chairman: Mr. VOUTOV (Bulgaria)

CONTENTS

Consideration of prohibitions or restrictions of use of certain conventional weapons  
which may be deemed to be excessively injurious or to have indiscriminate effects.  
(continued)

Report of the Working Group on Incendiary Weapons

Report of the Working Group on Landmines and Booby-Traps

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The meeting was called to order at 3.45 p.m.

CONSIDERATION OF PROHIBITIONS OR RESTRICTIONS OF USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS (agenda item 3) (continued) (A/CONF.95/8; A/CONF.95/CW/4; A/CONF.95/CW/WG.1/L.9; A/CONF.95/CW/WG.2/L.2 and 3)

Report of the Working Group on Incendiary Weapons

1. Mr. FELBER (German Democratic Republic), Chairman of the Working Group on Incendiary Weapons, submitted the interim report of the Working Group. It had held three formal and two informal meetings. At the first formal meeting, it had decided to base its work in principle on the draft Protocol prepared at the first session, taking into account any other proposals which would be submitted to it. At its second and third formal meetings, the Working Group had reconsidered the text of the draft Protocol in document A/CONF.95/8, Annex I, Appendix C, Attachment 1.
2. Agreement had been reached on the definitions for the protocol relating to incendiary weapons, concentration of civilians, military objectives, civilian objects and feasible precautions; as usual, that agreement was ad referendum. Some delegations had made oral reservations in respect of the exception to the definition of incendiary weapons and others to the definition of feasible precautions. It had been possible to delete the brackets in paragraph 3 (b). The discussion on the definition of flame weapons had been postponed because the need for such a definition depended on the rules.
3. With regard to the rules, agreement had been reached only on the first, which reaffirmed the absolute protection of the civilian population, individual civilians and civilian objects from attack by incendiary weapons. Three sets of brackets had unfortunately had to be added during the consideration of the rules.
4. In order to facilitate the work of the Group, it had been decided to hold informal meetings. The Group had concentrated all its efforts on the second rule (paragraph 10), but no further progress had been made. The discussion had centred on the question whether it was possible to prohibit attacks on military objectives located within a concentration of civilians by all air-delivered incendiary weapons or whether such prohibition should be restricted only to air-delivered flame weapons. There had been no discussion on the protection of combatants.
5. The delegation of Morocco had submitted a new proposal concerning the definition of flame weapons (A/CONF.95/CW/WG.2/L.2) and the delegation of the USSR had made a proposal relating to the protection of the environment (A/CONF.95/CW/WG.2/L.3).

6. The CHAIRMAN noted that the Working Group on Incendiary Weapons had made some progress but that the most important issue still had to be resolved. He appealed to all delegations to do their utmost to find generally acceptable solutions.

Report of the Working Group on Landmines and Booby-Traps

7. Mr. AKKERMAN (Netherlands), Chairman of the Working Group on Landmines and Booby-Traps, gave a progress report on the work of the group concerning the draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (A/CONF.95/8, Annex I, Appendix A).

8. At its first meeting, the Group had decided that, as agreed, it would address itself exclusively to the outstanding issues concerning recording and publication of the location of minefields, mines and booby-traps (article 3), including the technical annex proposed by one delegation in 1979, and restriction of the use of remotely delivered mines (article 4). It would also take account of the note by the Secretariat relating to articles 3 and 3 bis (A/CONF.95/CW/4).

9. As consultations undertaken upon the initiative of the Chairman had not yielded sufficient results to warrant a substantive discussion, the Group had decided to defer consideration of the issues relating to articles 3 and 4. With regard to the comments by the Secretariat concerning articles 3 and 3 bis, it had been decided that the informal contact group on peace-keeping operations, established in 1979, would deal with the relevant issues contained in document A/CONF.95/CW/4. The contact group had met on three occasions and had formulated a text (A/CONF.95/CW/WG.1/L.9) which had been transmitted to the Working Group for its consideration and adopted by it, for inclusion in the final report to the Committee of the Whole.

10. In spite of intensive consultations and an exchange of views at the third meeting of the Working Group, no agreement had been reached on the text of article 3; the Group had decided to continue its deliberations at the following meeting and, in the meantime, to resume consultations.

11. With regard to article 4, the delegation of Yugoslavia had had to confirm the position set forth in the footnote to that article. None of the various alternatives which it had offered had met with the consensus of the Group.

12. At the Working Group's fourth meeting, he had submitted a new draft paragraph 3 for article 3, prepared after consultations with many delegations. Although some delegations had said that their concerns were essentially met by the draft, others had not found it acceptable. Several amendments had been proposed. Some delegations that could not agree with the initial draft had said that they were prepared to reconsider their position on the basis of those amendments, but others had made known the difficulties which those amendments had created for them.

13. One delegation had reserved its position on articles 3 and 4 pending further consideration of the technical annex attached to the report of the Conference on its first session (A/CONF.95/8). The representative of the Libyan Arab Jamahiriya had confirmed his delegation's position, as reflected in the previous report of the Working Group on Landmines and Booby-Traps (A/CONF.95/8, Annex I, Appendix B, paragraph 14).

14. As progress had been made and there was a possibility of resolving outstanding issues, the Working Group recommended that the Committee of the Whole should extend the time-limit for the submission of its final report. That deadline might be Thursday, 25 September. It also recommended that the Committee of the Whole should refer to the Drafting Committee, in order to enable it to begin its work at an early date, articles 1, 2, 2 bis, 3 bis, 3 ter, 5 and 6 of the draft Protocol on Prohibitions or Restrictions on the use of Mines, Booby-Traps and Other Devices on which agreement had already been reached.

15. Mr. de la GORCE (France) stressed the importance which his delegation had always attached to the drafting of a protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices. It had actively participated in the work and had no wish to stand in the way of an agreement, although it had doubts about the advisability of the successive changes made to the initial text. In that regard, it seemed that, all too often, the concept of "aggressor States" was regarded as being the same as that of "occupying States at the time of the cessation of hostilities" in deliberations concerning the concepts of liability and of reciprocity of obligations, and legitimate grievances against the former were turned against the latter.

16. It was regrettable that, for lack of agreement on articles 3 and 4 of the draft Protocol, the Drafting Committee was unable to begin its work. It would undoubtedly be useful to transmit to it the draft Protocol as it stood, on the understanding that two of its articles were likely to be modified.

17. Since the Conference had before it a draft protocol on mines and booby-traps, his delegation wished to express its deep concern about some information from Afghanistan. According to reports, the content and origin of which his delegation was prepared to make known and which could not be ignored because they were so numerous, so similar and so specific, mines and anti-personnel booby-traps were being used in that country. Some of the facts reported were contrary to provisions which, although not yet formally in force, clearly expressed the unanimous will of the participants in the Conference. Such was the case with the provisions of article 6 of the draft Protocol which prohibited the use of any booby-trap in the form of an apparently harmless portable object (paragraph 1 (a)) or booby-traps which were in any way attached to or associated with children's toys (paragraph 1 (b)(v)), and also provisions in the draft on weapons producing non-detectable fragments. It seemed necessary to obtain the appropriate assurances, for the present and future, to remove the doubts which such testimony could not fail to arouse among the public with regard to the texts in process of elaboration. His delegation was therefore in favour of extending the mandate of the Working Group.

18. Mr. CITRON (Federal Republic of Germany) expressed the hope that the spirit of co-operation and determination which had guided delegations since the resumption of the Conference would make it possible to narrow the remaining differences of views and that, with regard to the prohibitions or restrictions on the use of certain conventional weapons, they would be able to develop standards which would be acceptable to the entire community of nations and therefore observed by parties to an armed conflict. The Conference must not confine itself to improving the rules of international law applicable in the case of armed conflict; it was also essential for it to see to it that those rules were respected. Referring to a concept expressed by several delegations at the first session, he said that, in his opinion, one of the ways to achieve that objective was to establish a consultative committee of the parties to the Convention, whose task would be to help the parties to an armed conflict to comply with existing agreements, to offer its services of conciliation in case of a dispute regarding the application of the protocols and, lastly, to inquire into a particular situation at the request of one of the parties. In his view, many delegations were firmly convinced that the establishment of such a body would greatly enhance the credibility of the Conference and demonstrate that the participants were determined to respect and implement in the interests of mankind the envisaged prohibitions and limitations. The fact of providing for such a consultative committee within the framework of the General Treaty to be prepared by the Conference would also take into account growing public awareness that observance of international law depended to a great extent on the possibility, in a given situation, of establishing the facts in a satisfactory manner. That concept would be further developed in a working document which several delegations had undertaken to prepare and which was to be submitted to the Conference. The idea was not new; its value was generally recognized and he hoped that it would meet with a favourable reception from all participants.

19. Mr. GAYNOR (Ireland) said that he would support the proposal of the representative of the Federal Republic of Germany when it was considered by the Working Group on a General Treaty.

20. Mr. VANDERPUYE (Ghana) said he did not think it would be advisable to submit a new document. It was highly unlikely that the proposal by the representative of the Federal Republic of Germany would help the Conference to make progress in its work.

21. Mr. de ICAZA (Mexico), speaking on a point of order, recalled the decision that there would be no general debate and that questions relating to the General Treaty would be considered by the competent working group. If a debate was begun on questions other than those directly related to the reports of the Working Groups, he would request the Chairman to adjourn the meeting.

22. The CHAIRMAN said that he entirely agreed with the view expressed by the representative of Mexico. He urged delegations to abide by the decision not to reopen the general debate, which had been taken for the sole purpose of facilitating and expediting the work of the Conference.

23. Mr. ISSRAELYAN (Union of Soviet Socialist Republics) said that he, too, thought that the general debate should not be reopened and that the Committee of the Whole should confine itself to taking a decision on the specific proposals made by the Chairman of the Working Group on Landmines and Booby-Traps.

24. Mr. ARRASSEN (Morocco) said that, in order to remove any doubt, his delegation wished to state that it reserved its position on articles 3, 3 bis, 3 ter and 4 of the draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices so long as the procedure to be followed for the recording and publication of the location of minefields, mines and booby-traps was not made clear, as agreed at the first session, in a technical annex or similar document. Those reservations also applied to the activities of the Drafting Committee.

25. Mr. CIVIC (Yugoslavia) said he did not think that sufficient consideration had been given to the alternative texts suggested by various delegations, in particular the Yugoslav delegation, for the wording of articles 3 and 4 of the draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices. It would be desirable to give delegations more time to express their views. He therefore supported the request of the Chairman of the Working Group on Landmines and Booby-Traps for an extension of the Group's mandate by a few days.

26. Mr. ROGERS (United Kingdom) also supported that request. He considered that if all the interested parties demonstrated good will, the additional time would make it possible to resolve the outstanding issues. His delegation would do its utmost to facilitate agreement.

27. With regard to the statement made by the representative of Morocco, he drew attention to paragraph 8 of the report of the Working Group on Landmines and Booby-Traps, annexed to the report of the Conference to the General Assembly (A/CONF.95/8, p. 18), which stated: "there was no opposition expressed to the view that attaching a technical annex on recording to the draft Protocol was desirable. There was, however, a general feeling in the Group that the details of the proposal required further study". Therefore, it did not seem exact to say that the participants had agreed on the need for such an annex.

28. Mr. ISSRAELYAN (Union of Soviet Socialist Republics) said that, in his opinion, it was not logical to take up in the Committee of the Whole questions which were within the competence of the working groups. He hoped that a decision would be taken without delay on the request made by the Chairman of the Working Group on Landmines and Booby-Traps. For his part, he supported that request.

29. The CHAIRMAN said he was convinced that it would be well to give additional time to the Working Group on Landmines and Booby-Traps in order to enable it to reach a final agreement. He therefore suggested that the Group's mandate should be extended to the morning of Thursday, 25 September 1980.

30. It was so decided.

31. The CHAIRMAN suggested that the text on non-detectable fragments, which had been the subject of agreement at the Preparatory Conference, should be transmitted to the Drafting Committee. Furthermore, he thought it advisable to request the Drafting Committee to undertake a preliminary examination of the provisions of the draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices on which agreement had already been reached. If there was no objection, he would take it that the Committee of the Whole adopted those two suggestions.

32. It was so decided.

The meeting rose at 4.35 p.m.