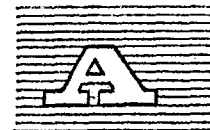
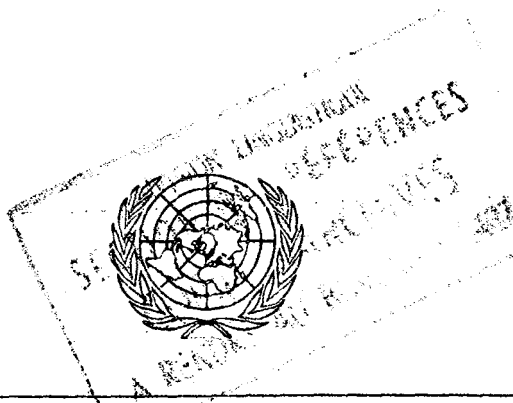


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UNITED NATIONS CONFERENCE ON PROHIBITIONS OR RESTRICTIONS OF USE
OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY
INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS

Second session

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE 15TH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 October 1980, at 10.30 a.m.

Chairman: Mr. VOUTOV (Bulgaria)

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The meeting was called to order at 11 a.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) (A/CONF.95/CW/6/Add.1) (continued)

1. The CHAIRMAN recalled that the report of the Working Group on Incendiary Weapons submitted at the previous meeting had been inconclusive with regard to the draft Protocol on Incendiary Weapons, in respect of which a number of important issues remained unresolved. The Committee had decided, upon the proposal of the Chairman of the Working Group, to extend once again the Group's mandate until Tuesday, 7 October, so that it could report to the Committee on the following day. He had urged all delegations involved to continue informal consultations and to do their utmost to reach agreement. Those efforts had been fruitful and the Group was now in a position to submit its final report reflecting the agreement reached on the draft Protocol on Incendiary Weapons.
2. Mr. FELBER (German Democratic Republic), Chairman of the Working Group on Incendiary Weapons, introducing the Group's report (A/CONF.95/CW/6/Add.1), said that in conformity with the decision of the Committee of the Whole, further informal consultations and two meetings of the Group had been held. As a result of considerable efforts by all delegations, the Group had been able to submit with the report a draft Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons without any brackets. In his opinion, the Group had thus fulfilled its obligations and made a contribution to the successful conclusion of the Conference. He commended the report to the Committee and proposed that it should submit the draft Protocol to the Drafting Committee.
3. Mr. MATHESON (United States of America) said that in the sixth line of paragraph 3 of the document under consideration the words "air-delivered" should be inserted between the words "by" and "incendiary".
4. The CHAIRMAN said that the necessary correction would be made.
5. Mr. ABDINE (Syrian Arab Republic) said that the draft Protocol in the document was a compromise text achieved through concessions on the part of all delegations. He regretted that it made no mention of the protection of combatants against the use of incendiary weapons. It was also to be regretted that the provisions relating to the protection of civilians did not constitute much progress over the 1949 Geneva Conventions. However, it had not been possible for delegations to achieve more. It was to be hoped that the review mechanism to be established would make it possible to improve the provisions adopted and to extend the protection sought. Moreover, a sincere desire by all to apply the provisions of the text in good faith would do much to fill in the gaps. He hoped that humanitarian feelings would prevail over all other considerations in order to give the text its full humanitarian significance.

6. Mr. CIVIC (Yugoslavia) said that his delegation was fully satisfied with the draft Protocol on Incendiary Weapons because its rules provided considerable protection for civilians and civilian objects. That achievement was to the credit of all delegations without exception.

7. His delegation was disappointed, however, because the Working Group had failed to resolve the question of the protection of combatants. The compromise definition adopted admitted exceptions which gave a significant advantage to technically and militarily advanced countries and left the door open for the use of certain incendiary weapons. His delegation had participated in the elaboration of that definition and had made proposals with a view to reducing that advantage. He was grateful to the delegation of Pakistan for the efforts it had made along those lines. There had been some compromise but in that area the real concessions had been made by the developing countries. He hoped that the problem of the protection of combatants would be resolved in the near future to the satisfaction of all. His delegation approved the report of the Working Group on Incendiary Weapons (A/CONF.95/CW/6/Add.1).

8. Mr. de ICAZA (Mexico) said his delegation was pleased that the appeals made at the previous meeting had been heeded and that the efforts made with regard to the draft Protocol on Incendiary Weapons had been fruitful.

9. His delegation approved the report of the Working Group on Incendiary Weapons, but considered that the draft Protocol which it contained could be adopted only within the context of a general treaty providing, inter alia, for a review mechanism. Such a mechanism was essential since the prohibitions in the draft Protocol constituted the very minimum that could be accepted; of the four rules in the operative part of the text only one, - paragraph 9 - represented real progress in the field of international humanitarian law. The remaining provisions were implicit in the Additional Protocol I to the 1949 Geneva Conventions. His delegation would not oppose the small step that had been taken in the hope that efforts would be continued within a review mechanism and that the international community would one day achieve a total prohibition on the use of incendiary weapons.

10. Mr. WOLFE (Canada) said that his delegation could not share the disappointment expressed by some representatives with regard to the draft Protocol since the agreement reached by the Working Group had been the best possible in the circumstances. Moreover, the door had been opened for continued discussion on the question. He agreed with the Yugoslav delegation that the concessions made by all delegations had enabled the Group to achieve a consensus.

11. Mr. CASTRO (Philippines), referring to paragraph 2 of the report of the Working Group (A/CONF.95/CW/6/Add.1), said that it had been his delegation's understanding that the words "prohibition" and "restriction" in the fourth line of the quoted statement were to be in the plural. He took it that the use of the word "rules" in the same line obviated the need for the two words in question to be in the plural.

12. Mr. LANG (Austria) welcomed the efforts made by the Working Group to produce a mutually acceptable text and to achieve an agreement that reflected the common denominator in the Committee.

13. With regard to the substance of the text, his delegation was somewhat disappointed at the fact that security considerations had prevailed over considerations of a humanitarian nature. It was therefore with a feeling of bitterness that his delegation accepted a text which made no mention of the protection of combatants. It hoped that the draft Protocol would constitute a first step towards ensuring that the fate of all those who participated in an armed conflict was as human as possible. In his delegation's opinion, the development of humanitarian law should remain on the agenda of the international community.

14. Mr. KALSHOVEN (Netherlands) said that, although feelings of disappointment had been expressed in the Committee, it should be realized that there had been a considerable change in the initial positions adopted by delegations regarding the prohibition of the use of incendiary weapons. In his view, therefore, the fact that agreement had finally been reached should be regarded as a miracle.

15. Mr. KEISALO (Finland) said that his delegation had been pleased to participate in the consensus referred to in the report of the Working Group on Incendiary Weapons. It regretted that no agreement had been reached on the question of the protection of combatants. He drew attention to the fact that the Nordic countries had prepared a draft resolution which was to be introduced in plenary and which proposed that the question should be taken up within the context of a review mechanism.

16. Mr. THUN (German Democratic Republic) expressed his delegation's appreciation of the results achieved in the Working Group on Incendiary Weapons. The Group had had a difficult task before it, but the results proved that, with the necessary political will on the part of all, such complicated problems could be solved in a mutually acceptable manner. His delegation was confident that even further prohibitions and restrictions could be elaborated in the future. The previous year his delegation had expressed its readiness to prohibit all use of napalm.

17. The draft Protocol constituted the result of what was realistic and possible at the present stage bearing in mind security and humanitarian considerations. His delegation had been prepared to accept a compromise solution with regard to the protection of combatants on the basis of rules which should be applicable in all combat situations. It had not been possible to achieve such an agreement. Nevertheless, his delegation would be prepared in the future to seek a solution acceptable to all. It supported the report of the Working Group on Incendiary Weapons and suggested that the draft Protocol should be submitted to the Drafting Committee for final reading.

18. Mr. QUAN PHAN (Viet Nam) congratulated the Working Group on the results it had achieved and on having reached a consensus.

19. With regard to the draft Protocol, he said that the French text of paragraph 3 (b) differed from the English version, which referred to an "additional incendiary effect". In his opinion, the equivalent of the word "additional" should be inserted in the French version of the paragraph.

20. The CHAIRMAN said that the Secretariat would make the necessary correction.

21. Mr. MAREI (Egypt) said the spirit of co-operation and accommodation displayed by all delegations had enabled the Working Group to achieve a consensus on the draft Protocol. However, his delegation's satisfaction was tempered by regret that there had not been time to afford combatants the protection to which they were entitled in accordance with the principle of prohibiting weapons that caused unnecessary suffering or excessive injury. It hoped that that omission would be rectified in the not too distant future through the follow-up arrangements provided for in the Convention to be adopted by the Conference.

22. Mr. KORNEEV (Union of Soviet Socialist Republics) said that his delegation also wished to congratulate the Working Group on Incendiary Weapons on the excellent results it had achieved. The agreement reached on the draft Protocol was the result of the constructive approach adopted by all delegations. His delegation approved the report of the Working Group in document A/CONF.95/CW/6/Add.1.

23. Mr. VANDERPUYE (Ghana) said that the Working Group's report was reasonably satisfactory in all aspects. All delegations had played a constructive role in finding common ground to achieve that result. As a compromise, his delegation had agreed to the exceptions in paragraph 3(b) of the draft Protocol, but it regretted the failure to extend protection to combatants, which should be considered at a future meeting. In balancing humanitarian requirements against military necessity, the first concern should be with the human beings involved, whether or not they were wearing uniform. He particularly commended the rule in paragraph 11 prohibiting attacks by incendiary weapons on forests, which were the chief means of livelihood of many developing countries, although he appreciated that forests could offer cover for military objectives.

24. Mr. ONKELINK (Belgium) said that the reactions of delegations to results achieved after such difficult negotiations were bound to be mixed. However, the spirit of compromise had resulted in a definite step forward which had not seemed possible at an earlier stage, and which gave reasonable grounds for optimism about the outcome of the Conference as a whole. In the current international climate, any result achieved by negotiation should be welcomed. The prospects for a new international instrument of humanitarian law were good.

25. Mr. PARKS (United States of America) endorsed the comments made by the representatives of the Netherlands, Canada and Belgium and stressed his delegation's satisfaction with the results of the negotiations.

26. Mr. CZANK (Hungary) said that, although the negotiations had been very difficult, the spirit of compromise had prevailed. The draft Protocol was a good one under the circumstances and provided a useful stepping stone towards the successful outcome of the Conference as a whole, for which his delegation still hoped. It approved both the report of the Working Group and the text of the draft Protocol.

27. Mr. de la GORCE (France) also expressed satisfaction at the results of the difficult negotiations on an important subject which might prove to be decisive for the success of the Conference as a whole. The draft Protocol was a step forward and, although further progress was needed, it constituted a commitment by the present Conference to the development of humanitarian law. It might also have a beneficial effect on the current international atmosphere.

28. Mr. CHASPURI (Indonesia) said that agreement on the draft Protocol had been made possible only by the flexibility shown by all delegations. The reaction of his own delegation was a mixture of gratitude and disappointment that the text afforded inadequate protection to civilians against incendiary weapons and no protection to combatants. He hoped that the text could be improved in the future on both counts.

29. Mr. DUMONT (Argentina) said that although all delegations might not be fully satisfied with the draft Protocol, it constituted a definite step forward to the generally desired goal. He pointed out that in the Spanish text of the draft Protocol, in the last line of paragraph 3(b), the words "O servicios" should be inserted to translate "or facilities", and that the word "aeronaves" would be preferable to "aviones". In paragraph 10 the phrase "other than air-delivered" would be better translated in Spanish by "que no sean lanzadas desde el aire".

30. The CHAIRMAN said that the Secretariat would note those comments about the Spanish text.

31. Mr. OLUMOKO (Nigeria) said that delegations would understand the concern of developing countries about incendiary weapons: in Africa, people had suffered from their indiscriminate and harmful effects in the course of the struggle for independence. His delegation was not particularly satisfied with the results achieved by the negotiations, but it was prepared to join the consensus on the draft Protocol, which constituted a positive, though modest, step forward. He hoped that there would be more progress with the codification of rules for incendiary weapons.

32. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to note with appreciation the report of the Working Group on Incendiary Weapons (A/CONF.95/CW/6/Add.1).

33. It was so decided.

34. The CHAIRMAN, on behalf of the Committee, thanked the Chairman of the Working Group for his report and for the manner in which he had conducted the work of the Group. If there were no objections, he would take it that the Committee wished to refer the text of the draft Protocol to the Drafting Committee immediately.

35. It was so decided.

36. The CHAIRMAN suggested that, in order to expedite the conclusion of the Committee's work, the Drafting Committee should be requested to submit its report and the text of all the protocols directly to the plenary.

37. It was so decided.

Oral report on informal consultations on small calibre weapon systems

38. The CHAIRMAN said that, as the Working Group on Incendiary Weapons had completed its work, delegations could if they wished make statements on small calibre weapon systems, as promised at the previous meeting.

39. Mr. SKALA (Sweden) said that his delegation had not made a statement on the report on incendiary weapons as it intended to revert to that subject at the final plenary meeting.

40. Sweden had introduced a working paper on small calibre weapon systems on 26 September (A/CONF.95/CW/5), which had provided the basis for preliminary informal consultations on small calibre weapons held to enable the technical experts of various countries to formulate some conclusions.

41. Mr. JANZON (Sweden) reported orally on the informal consultations which had taken place. 1/

42. Mr. SKALA (Sweden) proposed that those informal discussions should also be reflected in the report of the Committee of the Whole, in the following terms;

"On the basis of a working paper, introduced by Sweden on 26 September (A/CONF.95/CW/5) informal consultations took place among interested delegations on the matter of small calibre projectiles. The conclusions of these consultations were introduced to the Committee of the Whole on 8 October and are reproduced in document, which is attached to the Committee's report."

43. Mrs. MAZEAU (United States of America) said that her delegation had participated in the technical discussions and believed that they had been very helpful in focusing on the difficulties existing at the technical level. The summary of discussions given by the Swedish delegation had been fair, and as it had indicated, a number of substantial technical differences remained to be resolved. She fully supported the proposal to have the summary of the discussions reflected in the Conference documents.

1/ The text of that report was reproduced in document A/CONF.95/CW/8 and subsequently in Annex I to the report of the Committee of the Whole, document A/CONF.95/11.

44. Mr. RUIZ PEREZ (Mexico) said that his delegation fully supported the report given by the Swedish delegation. He drew the Committee's attention to the draft resolution in document A/CONF.95/L.5, which his delegation would introduce formally at the next plenary meeting, referring to proposals in connection with certain categories of weapons on which the Conference had been unable to agree for lack of time, and inviting the Secretary-General of the United Nations to transmit them to all member countries with the recommendation that Governments should continue to give serious consideration to including them on the agenda of the first conference to be convened under article 3 of the draft General Treaty.

45. Mr. CASTRO (Philippines) confirmed that the oral report by the chairman of the informal working group had accurately and faithfully reflected the proceedings, and fully supported the proposal by the Swedish delegation that the report of the Committee of the Whole should reflect those discussions; the proposed wording was entirely acceptable.

46. Mr. ROBERT (Federal Republic of Germany) said that the report by the Swedish delegation very fairly and correctly represented the discussions of experts, which had shown that useful work in the future was possible. He therefore fully supported the proposal that the discussions should be reflected in the report of the Committee of the Whole.

47. Mr. BROSKI (Canada) said that his delegation also supported the Swedish proposal, and would like to see the work on small calibre weapons continued.

48. Mr. PROKOFIEV (Union of Soviet Socialist Republics) said that in principle his delegation did not object to the report of the Committee of the Whole reflecting the oral report by the Swedish delegation, but it would first of all like to have the proposed wording in writing before taking any decision, particularly in view of the fact that, not only had informal consultations on small calibre weapon systems taken place, but informal discussions had also been held between the socialist countries on other issues which they would also like to see reflected in the same report.

49. The CHAIRMAN said that it appeared to be generally agreed that the results of the informal meetings should be reflected in the report. Sweden's draft wording could be studied, together with any amendments to it, when the Committee adopted the report it would be submitting to the plenary.

50. Mr. SKALA (Sweden) said that his delegation was willing to have informal discussions on the text which it had already submitted to the Secretariat. However, his delegation would assume that the paragraph was acceptable unless amendments were submitted to it direct.

The meeting rose at 12.25 p.m.