

UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/CONF.95/CW/SR.9
2 October 1979

Original: ENGLISH



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

COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE 9th MEETING

held at the Palais des Nations, Geneva,
on Thursday, 27 September 1979, at 9 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 Landmines and Booby-Traps

Report of the Working Group on Incendiary Weapons

Draft resolution on small calibre weapon systems

Draft report of the Committee of the Whole

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should
be set forth in a memorandum and also incorporated in a copy of the record. They
should be sent within one week of the date of this document to the Chief,
Official Records Editing Section, room E.6108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee will be
consolidated in a single corrigendum to be issued shortly after the end of the
conference.

GE.79-64224

The meeting was called to order at 9.40 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)

Report of the Working Group on Landmines and Booby-Traps (A/CONF.95/CW/1/Rev.1/Add.1)

1. Mr. AKKERMAN (Netherlands), Chairman of the Working Group on Landmines and Booby-Traps, introduced the Group's report (A/CONF.95/CW/1/Rev.1/Add.1), to which was attached the text of a draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (A/CONF.95/CW/1). Almost full agreement had been reached on the text of that Protocol, but part of article 3 (3) (iii) */ had been placed in square brackets to reflect a difference of opinion as to substance. The Working Group hoped, however, that in the course of the Conference it would prove possible to clear up that issue.
2. As a result of the discussions in the Working Group it would probably be necessary to make a few amendments to paragraph 7 of the draft report of the Committee of the Whole (A/CONF.95/CW/CRP.2).
3. Mr. MIHAJLOVIC (Yugoslavia) said that his delegation had on more than one occasion expressed its opinion regarding articles 3 and 4 of the draft Protocol and put forward amendments to those provisions. However, the report of the Working Group (A/CONF.95/CW/1/Rev.1/Add.1) and the draft Protocol (A/CONF.95/CW/1) did not, perhaps because of an oversight, accurately reflect his delegation's position. He therefore wished to state his delegation's reservations to those two documents.
4. With respect to the draft Protocol, his delegation wished the words "other than territory under the occupation or control of their own forces or allied forces" in article 3 (3) (i) to be placed in square brackets.
5. The whole of article 3 (3) (iii) should be deleted.
6. His delegation had proposed to amend article 4 (1) to read "The indiscriminate use of remotely delivered mines is prohibited", with the rest of the paragraph being deleted. His delegation was unable to accept rules concerning the use of weapons in armed conflicts which would be to the advantage of one side only, even if those rules were drafted under the humanitarian pretext of protecting civilians. Such rules would be contrary to Yugoslavia's defence and national interests.
7. With respect to article 3, his delegation was unable to accept any reference to the rights of an aggressor, but only provisions regulating an aggressor's duties in respect of the protection of civilian lives. Aggressors had no right to be on foreign territory.
8. He requested the appropriate changes to be made to the report of the Working Group and the draft Protocol.

*/ In the final version of the draft Protocol attached to the report of the Conference (see A/CONF.95/8, annex I, appendix B, attachment 1), subparagraphs (3) (i)-(iv) have been renumbered (3) (a)-(d).

9. Mr. ABDINE (Syrian Arab Republic) endorsed the remarks made by the Yugoslav representative.
10. Mr. PISSAS (Cyprus) reminded the Committee of his delegation's position with respect to the mandatory provisions regarding disclosure of locations of minefields after cessation of active hostilities. His Government believed that as long as any part of a State was occupied by any foreign forces and that State's integrity and sovereignty were violated and denied, there was no cessation of hostilities and that such a State should not, therefore, be bound to disclose any information either to the occupying party or to any other body which might directly or indirectly help the adverse occupying party to stabilize and continue such occupation.
11. He would welcome the deletion of paragraph (3) (iii) of article 3. Since there were still some paragraphs in article 3 that needed clarification, he wished to reserve his delegation's position until it had had time to discuss the matter with its Government.
12. Mr. VAN SON (Viet Nam) said that his delegation wished to delete the second phrase in square brackets in article 3 (3) (iii) of the draft Protocol, which read: "and in any case when the cessation of hostilities becomes effective and permanent, make public".
13. It was highly unfair and manifestly contrary to the principle of respect for sovereignty to impose on the party that was a victim of invasion, occupation or aggression an obligation to make public any information concerning the location of minefields, mines and booby-traps in any part of its own territory occupied or controlled by the forces of an adverse party. Moreover, from the practical point of view, his own country's experience had shown that it was almost impossible to envisage an effective and permanent cessation of hostilities while any part of the territory of a country that was the victim of aggression was still under the occupation or control of the adverse party.
14. Mr. AKKERMAN (Netherlands), Chairman of the Working Group on Landmines and Booby-Traps, said it was his understanding that the Yugoslav view regarding article 4 of the draft Protocol had been adequately reflected in the last sentence of paragraph 15 of the report of the Working Group, which read: "One delegation expressed its preference for the following text of article 4: 'The indiscriminate use of remotely delivered mines is prohibited.'" That wording could be amended to accommodate the Yugoslav delegation's wishes, but it would be impossible to introduce any additional square brackets into the text of the draft Protocol since that text had already been agreed by the Working Group.
15. Mr. MIHAJLOVIC (Yugoslavia) said it would be more accurate to indicate in the Working Group's report that his delegation could not agree with the text of article 4.
16. The CHAIRMAN said that the Yugoslav representative's objection might best be met by means of an amendment to the report of the Committee of the Whole.

17. Mr. ARRASSEN (Morocco) reminded the Committee that his delegation had agreed, in a spirit of compromise, not to insist on a provision for an automatic neutralization mechanism for remotely delivered mines. In the absence of an official French translation of the last sentence of paragraph 8 of the Working Group's report, reading "The view was expressed that attaching a technical annex on recording, to the draft Protocol, was desirable.", he wished to make it clear that such an annex should be closely linked with article 4 of the draft Protocol.

18. Mr. AKKERMAN (Netherlands), Chairman of the Working Group on Landmines and Booby-Traps, said that those words had been proposed by the Soviet delegation in English, which was therefore the authentic version.

19. Mr. BAYART (Mongolia) asked whether the word "or" in article 6 (1) (b) (j) of the draft Protocol should not read "and".

20. Mr. ROGERS (United Kingdom) explained that the word "or" had been used for the sake of consistency, since all the subparagraphs in the article contained that word.

21. The CHAIRMAN said he took it that the Committee wished to take note of the report of the Working Group on Landmines and Booby-Traps (A/CONF.95/CW/1/Rev.1/Add.1) and to attach it to the Committee's own report to the Conference.

22. It was so decided.

Report of the Working Group on Incendiary Weapons (A/CONF.95/CW/2/Add.1)

23. Mr. FELBER (German Democratic Republic), Chairman of the Working Group on Incendiary Weapons, introduced the Group's report (A/CONF.95/CW/2/Add.1). An addition should be made to paragraph 1 mentioning that Miss A. Levin had served as secretary of the Working Group.

24. Mr. CONNICK (Australia) said that his delegation shared the feeling of disappointment that it had not been possible to reach general agreement on prohibitions or restrictions of the use of incendiary weapons. Australia was a party to international agreements prohibiting the use of weapons that caused unnecessary suffering and it supported their application to all classes of weapons, particularly napalm. Australia neither possessed nor intended to acquire aerial or mechanized napalm-type weapons.

25. Australia and the Netherlands, which had put forward a number of proposals designed to enable a consensus to be reached on the question, considered that the draft Protocol contained in document A/CONF.95/CW/2 constituted the best basis for progress. They wished it to be quite clear that they could agree to the elements of that draft Protocol and they had, therefore, submitted a revised version of their previous proposals embodying all the elements on which there had been broad agreement within the Working Group (A/CONF.95/CW/L.3).

26. Mr. KALSHOVEN (Netherlands) said that his delegation, like the Australian delegation, had made efforts to find a formulation acceptable to all participants. The sponsors of the draft Protocol contained in document A/CONF.95/CW/L.1 had demonstrated their willingness to abandon the notion of complete prohibition, which had not received full support. His delegation believed that the draft Protocol submitted by the Working Group (A/CONF.95/CW/2) accurately reflected what all participants could accept and it considered that a consensus could have been reached.

27. The intention in introducing the draft Protocol contained in document A/CONF.95/CW/L.3 had been not to re-open the debate, but rather to state the positions of the Netherlands and Australian delegations. Although his delegation believed that that document reflected the position of the majority of the delegations present, it remained fully committed to working on the basis of the draft Protocol submitted by the Working Group. He requested that document A/CONF.95/CW/L.3 should be annexed to the report of the Conference to the General Assembly.

28. The CHAIRMAN said that the Netherlands representative's request would be met.

29. Mr. de ICAZA (Mexico) said that he well understood the disappointment of the Australian delegation at the failure to adopt a protocol on incendiary weapons, particularly since it had introduced a proposal on the subject five years previously.

30. The Netherlands representative was apparently under a slight misapprehension. The Mexican delegation had not abandoned the concept of total prohibition of use of incendiary weapons, nor would it do so in the future. However, in order to institute a mechanism leading to an eventual complete prohibition and as a first step in that direction, the delegation of Mexico, together with others, had submitted a proposal on restriction of use.

31. He noted with satisfaction that other delegations had also made proposals with a view to finding a basis for consensus. However, he emphasized that the text submitted by the Australian and Netherlands delegations (A/CONF.95/CW/L.3) was essentially the same as their proposal to the Preparatory Conference (A/CONF.95/3, annex I, K), although there had been a number of changes in the wording.

32. Mr. MAREI (Egypt) said that the sponsors of document A/CONF.95/CW/L.1 had made every effort to reach a compromise, for they had in fact always favoured a complete ban on incendiary weapons. He hoped that it would prove possible, at the resumed session of the Conference, to conclude an agreement along the lines of that draft Protocol, which represented the absolute minimum his country could accept.

33. Mr. WOLFE (Canada) said that the square brackets in the draft Protocol submitted by the Working Group (A/CONF.95/CW/2) did not all reflect deep disagreement; in many cases, the difference of opinion was over technical questions. He considered that many delegations were close to agreement on the Working Group's document. Document A/CONF.95/CW/L.3, too, commanded a broad measure of support, although not, of course, unanimous approval.

34. While sharing the disappointment of other participants over the failure to reach general agreement, he urged delegations to use the period before the resumed session to examine their positions in the context of military requirements and policies. The representative of Egypt had stated that document A/CONF.95/CW/L.1 represented the minimum his country could accept, and that was not a good starting-point from which to reach agreement.

35. Mr. FARNON (New Zealand) said that the basic objective of his delegation was the achievement of the widest possible measure of agreement. His country shared the views expressed by the overwhelming majority of delegations concerning the need for increased protection of civilians. The draft Protocol submitted by the Working Group represented a good basis on which to work and the draft Protocol submitted by the Australian and Netherlands delegations was also a helpful development.

36. Mr. MARSHALL (United Kingdom) said that his delegation attached importance to finding a compromise likely to win general acceptance. It was too early to ascertain whether a middle ground could be found, but he considered that the proposal most likely to find such acceptance was the draft Protocol submitted by the Australian and Netherlands delegations.

37. Mr. POENSGEN (Federal Republic of Germany) considered that the draft Protocol submitted by the Australian and Netherlands delegations was an extremely useful document and provided common ground for the continuation of negotiations. There was no reason to be disappointed that agreement had not been reached, since the results obtained had nevertheless been considerable.

38. Mr. MAREI (Egypt), replying to the representative of Canada, said that his statement had reflected the opinion of the majority of those delegations seeking total prohibition, since they had already gone a long way towards finding a middle ground. He requested that document A/CONF.95/CW/L.1, too, should be annexed to the Conference's report. He appealed to all Governments to refrain from using incendiary weapons pending the conclusion of an agreement.

39. Mr. LINDSTROM (Norway) said that his country had always been particularly interested in the question of incendiary weapons. Together with Denmark, it had submitted to the Preparatory Conference a draft proposal (A/CONF.95/3, annex I, I) which he considered should be taken up again at the resumed session. At the present juncture, it would be useful to concentrate efforts on the draft Protocol submitted by the Working Group, since documents A/CONF.95/CW/L.1 and L.3 represented two extremes. The draft Protocol submitted by the Australian and Netherlands delegations did not provide a sufficient basis for a consensus at the present time. His delegation would use the period before the resumed session to reconsider its position and to see what basis for agreement existed.

40. Mr. de ICAZA (Mexico) said that frequent reference had been made to the "majority opinion". However, as the Conference did not vote it was difficult to know exactly what was the majority opinion. Reference had also been made to the middle ground lying between a total ban and minimum requirements. He considered that the document submitted by his delegation did in fact constitute a compromise between a total ban and minimum protection for civilians. In order to achieve success during future discussions, it would be necessary to renounce both impractical idealism and an approach based on military considerations.

41. Mrs. MAZEAU (United States of America) considered that the square brackets remaining in the draft Protocol submitted by the Working Group obscured the measure of agreement that had been reached. Her delegation remained committed to the document and thought that it should be used as a basis for discussion at the resumed session. She expressed her appreciation of the efforts made by the Australian and Netherlands delegations.

42. The CHAIRMAN said he took it that the Committee agreed to take note of the report of the Working Group on Incendiary Weapons (A/CONF.95/CW/2/Add.1) and to attach it to the Committee's own report to the Conference.

43. It was so decided.

44. Mr. POLLIT (Nigeria) said that, although it had not been possible to reach agreement, Mr. Felber, Chairman of the Working Group on Incendiary Weapons, had made a valuable contribution towards reconciling different points of view. Should the Conference meet in a resumed session, his delegation would suggest that Mr. Felber should continue to act as Chairman of the Group.

Draft resolution on small calibre weapon systems (A/CONF.95/CW/L.2/Rev.1)

45. The CHAIRMAN reminded the Committee that at the previous meeting the representative of Sweden had introduced a draft resolution on small calibre weapon systems (A/CONF.95/CW/L.2). A number of oral amendments had been proposed to the text at that time, and he understood that informal consultations had since been held in the hope of reaching agreement on a final text.

46. Mr. SKALA (Sweden) said that the amendments suggested had been incorporated in document A/CONF.95/CW/L.2/Rev.1, which was before the Committee. During previous discussions, some delegations had questioned the desirability of stating in paragraph 5 of the draft resolution that the international symposium on wound ballistics would be held under United Nations auspices. At the previous meeting, he had explained why he thought it desirable to have recourse to United Nations facilities, but in deference to other views expressed he would agree to delete the reference to the United Nations. It had also been suggested that it would be useful to communicate the results of the symposium to the Committee on Disarmament. Paragraph 5 of the draft resolution might therefore be extended to read "and hopes that the result of the symposium will be made available to the Committee on Disarmament and other interested fora".

47. Mr. LINDSTRØM (Norway) said that as the present Conference was being held under United Nations auspices it would seem appropriate to include a reference to the Organization in the draft resolution, for example by adding the words "the United Nations," after the words "available to" in the text read out by the Swedish representative.

48. Mr. SKALA (Sweden) said that he would be happy to accept that proposal.

49. Mr. DE SOUZA E SILVA (Brazil) said that the formulation proposed by the Norwegian representative could be taken to imply that the United Nations and the Committee on Disarmament were two quite separate institutions, whereas his delegation considered that the Committee on Disarmament was part of the United Nations. He could not, therefore, support a draft containing such a phrase.

50. Mr. THUN (German Democratic Republic) cited passages in paragraphs 118 and 120 of the final document of the General Assembly's special session on disarmament 1/ in support of the view that the Committee on Disarmament was not formally a United Nations body.

51. After an exchange of views in which Mr. LUO RENSHI (China), Mr. VANDERPUYE (Ghana), Mr. de ICAZA (Mexico), Mr. ARRASSEN (Morocco), Mr. AMBEVA (Kenya), Mr. AFENDULI (Greece), Mr. MAREI (Egypt), and Mr. DEVARE (India) made further suggestions regarding the wording of paragraph 5 of the draft resolution. Mr. de ICAZA (Mexico) suggested that the meeting should be suspended to allow time for informal consultations on the matter.

The meeting was suspended at 11.55 p.m. and resumed at 12.10 a.m.

52. Mr. de ICAZA (Mexico) said that a consensus had been reached on the following text for paragraph 5 of the draft resolution: "Welcomes the announcement that an international scientific symposium on wound ballistics will be held in Gothenburg, Sweden, in late 1980 or in 1981, and hopes that the results of the symposium will be made available to the United Nations Disarmament Commission, the Committee on Disarmament, and other interested fora".

53. Mr. LUO RENSHI (China) said he could support that wording.

54. Mr. DE SOUZA E SILVA (Brazil) said that he did not wish to raise objections after a consensus had been reached on the text of the paragraph, but he reserved his delegation's right to revert to the matter when the report of the Conference was discussed by the General Assembly.

55. Mr. AFENDULI (Greece) said that he, too, might wish to return to that question when the report of the Conference was considered by the General Assembly.

56. Mr. SKALA (Sweden) welcomed the fact that consensus had been reached on the text of the draft resolution.

57. Draft resolution A/CONF.95/CW/L.2/Rev.1, as amended, was approved for submission to the Conference.

1/ Official Records of the General Assembly, Tenth Special Session, Supplement No. 4 (A/S-10/4).

Draft report of the Committee of the Whole (A/CONF.95/CW/CRP.2)

58. The CHAIRMAN said there had unfortunately not been time to produce versions of the Committee's draft report (A/CONF.95/CW/CRP.2) in languages other than English. The report had been kept brief and factual, since it had been considered that proposals put forward orally in the course of discussion and expressions of views by individual representatives had been fully reflected in the summary records.

59. The report did not make reference to discussions that had taken place on the general treaty, since that was a matter for the plenary of the Conference.

60. He invited the Committee to consider the report paragraph by paragraph.

Paragraph 1

61. Paragraph 1 was approved.

Paragraph 2

62. The CHAIRMAN said that the figure "9" should be inserted in the blank spaces in the first sentence.

63. Paragraph 2 was approved.

Paragraph 3

64. Paragraph 3 was approved.

Paragraph 4

65. Paragraph 4 was approved, subject to the deletion of the square brackets and the replacement of "27 September" by "27-28 September".

Paragraphs 5 and 6

66. Paragraphs 5 and 6 were approved.

Paragraph 7

67. Mr. SZASZ (Legal Adviser) suggested that the following wording should be added at the end of the last sentence: "which were approved by the Committee and are recorded in document A/CONF.95/CW/1/Rev.1. The text of the draft Protocol as approved by the Committee, subject to a reservation by the delegation of Yugoslavia as to article 4, appears in annex ... to this report".

68. Mr. AKKERMAN (Netherlands), Rapporteur, explained that the reservation mentioned by the Legal Adviser would be referred to in a foot-note to article 4 of the text of the draft Protocol, reading: "The delegation of Yugoslavia suggested that article 4, paragraph (1), should read as follows: '(1) The indiscriminate use of remotely delivered mines is prohibited', and it therefore reserved its position on that paragraph".

69. Those amendments were adopted.

70. Paragraph 7, as amended, was approved.

Paragraphs 8-10

71. Paragraphs 8-10 were approved.

Paragraph 11

72. Mr. de ICAZA (Mexico) said that since he had not, in fact, introduced the draft Protocol, the first sentence should be amended to read: "At the same meeting, a document sponsored by Austria, Egypt, Ghana, Jamaica, Mexico, Romania, Sweden, Venezuela, Yugoslavia and Zaire, a 'Draft Protocol on Incendiary Weapons' (A/CONF.95/CW/L.1), was introduced".

73. Mr. KALSHOVEN (Netherlands) proposed that the second sentence should be similarly amended.

74. Mr. MARK (Switzerland) said that Switzerland should be included in the list of sponsors of document A/CONF.95/CW/L.1.

75. Those amendments were adopted.

76. Paragraph 11, as amended, was approved.

Paragraphs 12-13

77. Paragraphs 12-13 were approved.

Paragraph 14

78. Mr. SKALA (Sweden) proposed that in the second sentence, following the word "weapons", the following phrase should be inserted: "(small calibre projectiles, fuel-air explosives, and certain fragmentation weapons)".

79. Paragraph 14 was approved, subject to that amendment.

80. The report as a whole, as amended, was adopted.

81. Mr. ISSRAELIAN (Union of Soviet Socialist Republics) congratulated the Chairman on bringing the Committee's work to a successful conclusion. Herculean efforts had been needed to reach agreement on so many complex and difficult issues. He also thanked the Chairmen of the two Working Groups for their valuable contribution.

82. The CHAIRMAN thanked delegations for the spirit of co-operation they had shown. Although final agreement had not been reached, a substantial measure of success had been achieved, and he hoped that at its resumed session the Conference would succeed in reaching its goal.

The meeting rose at 12.55 a.m.