



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/9207
11 October 1973
ENGLISH
ORIGINAL: ENGLISH/RUSSIAN/
SPANISH

Twenty-eighth session
Agenda item 34

NAPALM AND OTHER INCENDIARY WEAPONS AND ALL
ASPECTS OF THEIR POSSIBLE USE

Report of the Secretary-General

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 3	3
II. REPLIES RECEIVED FROM MEMBER STATES		
Australia		4
Barbados		4
Byelorussian Soviet Socialist Republic		4
Cyprus		5
Czechoslovakia		5
Denmark		6
Finland		6
Guatemala		7
India		8
Iran		9
Kuwait		10
Mexico		11
Mongolia		11
Netherlands		13
Norway		14
Poland		16
Sweden		17

CONTENTS (continued)

	<u>Page</u>
Syrian Arab Republic	23
Union of Soviet Socialist Republics	23
United Kingdom of Great Britain and Northern Ireland	23
United States of America	24

I. INTRODUCTION

1. Pursuant to General Assembly resolution 2852 (XXVI) of 20 December 1971, the Secretary-General, at the twenty-seventh session, submitted a report entitled Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use. ^{1/} On 29 November 1972, the General Assembly adopted resolution 2932 A (XXVII) in which the Assembly, inter alia, requested the Secretary-General to circulate the report to the Governments of Member States for their comments and to report on these comments to the General Assembly at its twenty-eighth session.
2. By notes verbales dated 8 January 1973, the Secretary-General invited all Member States to convey to him their comments on the report by 31 August 1973, so as to enable him to comply with the request of the General Assembly.
3. Communications relating to the report have been received by the Secretary-General from 21 Member States. The substantive parts of these communications are annexed.

^{1/} A/8803/Rev.1 (United Nations publication, Sales No.: E.73.I.3).

II. REPLIES RECEIVED FROM MEMBER STATES

AUSTRALIA

[Original: English]

[21 September 1973]

Australia shares international concern about the use of napalm.

Australia is a party to international agreements to prohibit the employment in war of weapons calculated to cause unnecessary suffering. Australia reaffirms the principles in those agreements and their application to the use of all classes of weapons, particularly napalm.

Australia does not possess aerial or mechanized napalm-type weapons and does not intend to acquire them. Australia agrees that international study is required in order to bring about effective measures to prevent their use, especially in circumstances where civilians could be affected.

Australia is considering the most appropriate context in which such discussions should proceed - whether in the General Assembly, the Conference of the Committee on Disarmament or under the auspices of the International Committee of the Red Cross, and would be interested to know the views of other countries.

BARBADOS

[Original: English]

[22 February 1973]

The Permanent Representative of Barbados to the United Nations presents his compliments to the Secretary-General of the United Nations and with reference to the latter's note of 8 January 1973 has the honour to inform him that the Government of Barbados welcomes the report on napalm and other incendiary weapons and all aspects of their possible use prepared by the group of qualified governmental experts for the Secretary-General. The Government also supports the conclusions contained in chapter V of the report.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]

[17 August 1973]

As is well known, the delegation of the Byelorussian SSR at the twenty-seventh session of the General Assembly voted in favour of resolution 2932 A (XXVII), in which the General Assembly took note of the Secretary-General's report on napalm and other incendiary weapons and all aspects of their possible use (A/8803/Rev.1).

/...

The Byelorussian SSR wishes to express its gratitude to the consultant experts for the preparation of the above-mentioned report.

The question raised in the report concerning the measures that could be taken with regard to napalm and other incendiary agents requires further study. In this connexion, it will be necessary to take account of the relevant comments and proposals made by States Members of the United Nations.

CYPRUS

/Original: English/
/5 April 1973/

The Permanent Representative of Cyprus to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the latter's note of 8 January 1973 regarding Governments' comments on the report on napalm and other incendiary weapons, has the honour to inform that the Government of Cyprus concurs with the conclusions of the said report and suggests that both the General Assembly of the United Nations and the International Committee of the Red Cross be involved in the measures for the prohibition of the use, production, development and stockpiling of napalm and other incendiary weapons.

CZECHOSLOVAKIA

/Original: English/
/31 August 1973/

The Permanent Representative of the Czechoslovak Socialist Republic to the United Nations presents his compliments to the Secretary-General of the United Nations and with reference to the Secretary-General's note of 8 January 1973 has the honour to advise that a position of principle of the Czechoslovak Government concerning napalm and other incendiary weapons and all aspects of their possible use was stated by the Czechoslovak expert who participated in the preparation of the report embodied in document A/8803 and Corr.1.

The Permanent Representative of the Czechoslovak Socialist Republic to the United Nations avails himself of this opportunity to note that the above-mentioned report was prepared at a time when it was difficult to apply to the full extent concrete data regarding the use of napalm and other incendiary weapons in the conflicts which were then taking place. The facts which became known following the end of the aggression against the people of Viet-Nam have further increased and specified the knowledge of these terrible and destructive weapons. Owing to the importance of the reports on the effects of the various kinds of weapons of mass destruction, prepared under the auspices of the Secretary-General, in harmony with General Assembly resolution 2932 A (XXVII) of 29 November 1972, a translation of document A/8803 and Corr.1 was published in the Czechoslovak Socialist Republic.

/...

The report of the Secretary-General entitled "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use" stated, inter alia, that "except for nuclear weapons, and perhaps also certain biological and chemical weapons, no other armament places such destructive power in the hands of military commanders". The Permanent Representative of the Czechoslovak Socialist Republic to the United Nations has the honour to assure the Secretary-General of the United Nations that the competent Czechoslovak authorities are prepared to exert every effort to achieve a solution leading to the final prohibition of the use of napalm and other incendiary weapons.

DENMARK

[Original: English]
[28 August 1973]

The Danish Government considers that the report on napalm and other incendiary weapons and all aspects of their possible use is a very valuable contribution to the current international deliberations concerning the measures to be taken to obtain effective control with certain types of weapons.

The report constitutes a factual basis on which further studies of the possibility of elaborating international agreements in this field could be based. The aim of such agreements should be to restrict or prohibit the use of napalm and other incendiary weapons, especially in circumstances where these weapons have an indiscriminating effect against the civilian population.

In view of the highly technical character of the report and the problems it raises concerning the restriction or prohibition of production and stockpiling of incendiary weapons, the Danish Government finds that the subject could usefully be submitted to further studies in the Conference of the Committee on Disarmament which has developed a special expertise in questions related to arms control.

At the same time the problems involved in finding ways and means to control the use of incendiary weapons could also be taken up in other appropriate international fora, notably in the United Nations General Assembly and its subsidiary bodies and within the framework established by the International Committee of the Red Cross in connexion with the reaffirmation and development of international humanitarian law applicable in armed conflicts.

FINLAND

[Original: English]
[21 September 1973]

In the opinion of the Government of Finland the report contains valuable information on napalm and other incendiary weapons as well as on the effects and consequences of their possible use. This compilation of facts lays a good foundation for further discussions. The report underlines the gradually

/...

deteriorating situation and the urgent need for subsequent action in this field. It is the view of the Finnish Government that the report will facilitate such action.

Furthermore the report, and especially its chapter III dealing with medical effects of incendiary weapons, gives information which can be used as such both on international and national levels in endeavours to relieve and lessen the sufferings and injuries caused by the use of these weapons.

The main objectives of the report are to provide information to peoples and Governments on the effects of napalm and other incendiary weapons and all aspects of their possible use. The Finnish Government, considering it to be essential to increase the common knowledge about this matter, has decided to publish the report in Finnish.

In the opinion of the Finnish Government it is important to continue discussion and studies in order to find various ways and means to restrict the use of inhuman weapons and methods of warfare. The Finnish Government wishes that this subject could be considered at the diplomatic conference on the reaffirmation and development of international humanitarian law applicable in armed conflicts, to be held in Geneva next year.

GUATEMALA

[Original: Spanish]
[10 August 1973]

I have the honour to refer to your note of 8 January 1973, which refers to resolution 2932 A (XXVII) relating to general and complete disarmament.

In this connexion, I transmit below the comments of the Government of Guatemala with regard to the report entitled Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use.

A. The Government of Guatemala considers that napalm and all other waste war materials must not be discharged into maritime or continental waters, since, as a result of their chemical composition, they destroy the food reserves derived from water resources. These reserves are of great importance in providing against population explosions. The use of such a means of disposal completely neutralizes the protective measures for the conservation of animal life urged by the Food and Agriculture Organization of the United Nations (FAO).

Perhaps barren tundras or deserts (such as the Gobi) are the most appropriate areas for the disposal of waste war materials, or there may be some means or process for returning them to the soil in a form beneficial to the land.

Podzols, lateritic soils, chernozems, chestnut soils and highland soils (as in Guatemala) should not be chosen for the disintegration or dumping of waste war materials, particularly those of chemical composition. If no place can be found

/...

for their permanent disposal, it is better to place them in storage in order to avoid lethal effects on the use of renewable resources.

B. It is necessary to make renewed efforts for the legal prohibition of the use of weapons that cause unnecessary suffering in all armed conflicts, especially the mass use of incendiary weapons.

C. The increasing mobilization of military science and technology for purposes of total war must be halted, and they must be used instead to assist in the solution of world problems by converting their component elements and using them for the attainment of peaceful goals.

D. The Governments of the great Powers must step up their efforts to achieve important qualitative limitations and substantial reductions in offensive systems as regards the use of napalm and other incendiary weapons, until such time as they are completely abolished.

E. The Guatemalan Army endorses the conclusions arrived at by the group of qualified experts appointed to assist the Secretary-General in carrying out the task entrusted to him in General Assembly resolution 2852 (XXVI) in connexion with napalm and other incendiary weapons. However, it is important to bear in mind that, in order to destroy or neutralize such weapons, strict control is necessary.

F. It would be advisable to formulate a body of rules, laws, etc. in order to provide sanctions against any country or countries failing to comply with the various treaties aimed at restricting the use of napalm and other incendiary weapons.

G. Finally, the Government of Guatemala suggests that an intensive publicity campaign should be launched, through all available media, concerning the disastrous consequences of the use of napalm and other incendiary weapons, in order to create an awareness in all countries of the need for the voluntary abolition of the use of such weapons.

INDIA

/Original: English/

/16 October 1973/

The Government of India welcomes the Secretary-General's report on napalm and other incendiary weapons and all aspects of their possible use (A/8803/Rev.1) and considers it to be a very useful contribution to the current international consideration of the question of prohibition of the use of such weapons against civilian population and targets in armed conflicts.

The general approach of the Government of India has been, and continues to be, that the highest priority in all international deliberations and negotiations in

/...

the field of disarmament should be accorded to the questions of nuclear disarmament and elimination of weapons of mass destruction. The Government of India is gratified to note that the international community has also adopted this basic approach. At the same time, the Government of India appreciates that in the context of human rights in armed conflicts and the reaffirmation and development of international humanitarian law applicable in armed conflicts, the International Committee of the Red Cross has been seized of the question of prohibition of the use of napalm and other incendiary weapons against civilian population and targets.

The Government of India is of the view that the most appropriate forum for the consideration of the question of the use of napalm and other incendiary weapons is the International Committee of the Red Cross. The Conference of the Committee on Disarmament would not be an appropriate forum for the consideration of this question, particularly since it has before it several tasks of high priority.

Any restrictions that might be envisaged at the present stage and on which a general agreement could be reached should apply to the use in warfare of napalm and other incendiary weapons against civilian population and targets. Discussions at this stage of the much more complex questions of possible prohibition, limitation or regulation of the development, production and stockpiling of such weapons would be time-consuming and unlikely to yield any positive results. As stated earlier, the international community is at present rightly concerned with issues of immediate and high priority such as nuclear disarmament and elimination of weapons of mass destruction.

The Government of India would continue to take an active interest in, and promote within the framework of the International Committee of the Red Cross, measures for the prohibition of the use of all inhumane and indiscriminate weapons, including napalm and other incendiary weapons, against civilian population and targets. At the same time, it will no doubt be recognized that such a prohibition would, in actual effect, have to be based on the principles of reciprocity and the right of retaliation.

IRAN

/Original: English/

/31 July 1973/

1. Iran welcomed the above-mentioned report and voted in favour of resolution 2932 A (XXVII) which, inter alia, commended that report to the attention of the Member States.

2. The report is particularly valuable for assembling scientific historical data on a matter of increasing importance and urgency to the international community. Among the most salient points made about the use of incendiary weapons are: (1) their indiscriminate nature; (2) their relatively ineffective role militarily; and (3) their unnecessary cruelty.

/...

3. The history of warfare provides ample precedence whereby States and collectivities have agreed to limit or totally ban certain categories of weapons deemed unnecessarily cruel or exceeding the military requirement of putting the enemy out of action. Article 23 of the regulations annexed to the fourth Hague Convention, for example, forbids the employment of "arms, projectiles, or material calculated to cause unnecessary suffering".
4. The need for urgent international action on incendiary weapons is underscored by the fact that they are relatively inexpensive, and hence likely to be increasingly developed, with even more destructive variations, and used on a broader scale.
5. Given a general consensus within the international community to take action on these weapons, the Government of Iran would think that the most practical approach would be to consider a prohibition on the use of all incendiary weapons. This would circumvent the need for complicated verification and enforcement measures, as well as the complex question raised by a ban of only some incendiary weapons and not others. There are amply historical precedents for such an approach and it has the merit of simplicity and clarity which would commend as a starting point for discussions.
6. Naturally the Iranian Government is prepared to consider any and all proposals aimed at dealing with the grave problems posed by incendiary weapons. It favours a discussion of these questions at the international level at the appropriate fora at the earliest feasible opportunity.

KUWAIT

[Original: English]
[20 February 1973]

The competent authorities in the State of Kuwait have taken note of the report contained in documents A/8803 and Corr.1 and would like to commend the qualified governmental experts for the high quality of their work.

The Government of the State of Kuwait agrees that napalm bombing is an **example** of the widespread violence and brutality of our times. The report is most valuable and timely because napalm and incendiary weapons are still being used with utter disregard to the affliction and suffering to which civilian populations are subjected. What is more serious than using napalm during military operations is the frequent use of napalm directly against civilian populations.

While commending the report which is of lasting value in vividly describing the evils of napalm and other incendiary weapons, we would have liked it to contain more detailed information on the numerous instances in which napalm has been used and concrete examples of the suffering and hardship that its use inflicted on innocent and defenceless people.

/...

Kuwait voted in favour of resolution 2932 A (XXVII) which deplored the use of napalm and other incendiary weapons in all armed conflicts.

Kuwait will whole-heartedly support any action that may be taken by the United Nations to prevent the use of napalm in armed conflicts and especially against civilian populations.

MEXICO

[Original: Spanish]
[29 August 1973]

The Government of Mexico finds the report entitled "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use" entirely satisfactory because it strengthens the argument in favour of the total prohibition of the use of all incendiary weapons including napalm because of their cruelty and the human suffering they cause. To achieve that objective, the necessary steps should be taken for the conclusion of an international agreement as soon as possible. Such an agreement could be signed at the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts convened by the Government of Switzerland, which is to be held in Geneva from 20 February to 29 March 1974.

MONGOLIA

[Original: Russian]
[21 July 1973]

The Government of the Mongolian People's Republic gives its full approval and support to the United Nations General Assembly's recommendation concerning the preparation of the report Napalm and other incendiary weapons and all aspects of their possible use (General Assembly resolution 2852 (XXVI)) and to the subsequent wide circulation of the report among "all Governments and peoples" (General Assembly resolution 2932 (XXVII)). It regards this decision of the General Assembly and the report of the Secretary-General (A/8803) as timely measures which are of great significance in calling the attention of the world community to the enormous danger inherent in the existence, and particularly the use, of napalm and other incendiary weapons.

Having studied the report Napalm and other incendiary weapons and all aspects of their possible use, which was prepared by highly qualified experts, the Government of the Mongolian People's Republic wishes to make the following few comments:

1. Incendiary weapons, which occupy an important place in the arsenals of many States, represent one of the most powerful means of destruction and annihilation.

/...

This extremely cruel means of warfare is distinguished by the fact that it not only produces fire and flames at a high, destructive temperature but also emits toxic and asphyxiating substances, thus presenting a particular danger to the defenceless civilian population. Serious attention must be given to the views expressed by the experts who prepared the report to the effect that the massive use of such weapons for the purpose of destroying crops, forests and other kinds of vegetation may cause irreversible changes in the ecology, with drastic long-term consequences. It is also important to take account of their view that not all the effects of the use of incendiary agents can be controlled - a factor which creates insuperable difficulties in protecting the civilian population and the environment. As to the effect on targets, it is common knowledge that it is the civilian population which suffers most of all from the use of incendiary weapons, particularly napalm. The use of such weapons causes tremendous suffering and severe disfigurement; it also results in extremely high mortality. It would be virtually impossible, even in a highly developed country, to mobilize effectively the resources needed to treat those suffering the effects of the massive use of incendiary weapons.

2. The experts do not explicitly include napalm and other incendiary weapons among means of mass destruction. However, it is quite clear that, by virtue of their destructive and other properties, incendiary weapons very closely resemble weapons of mass destruction. In that connexion, we feel that it would be wrong to overlook the view of some military specialists who classify incendiary weapons as chemical means of warfare - which, as is well known, belong to the category of weapons of mass destruction.

3. Napalm and other incendiary weapons have in recent times been increasingly employed in military operations. We may cite as examples the recent widespread use of napalm, together with chemical agents, by the United States war machine in Viet-Nam and Indo-China and also the criminal acts committed by the Portuguese colonialists against the national liberation forces of the peoples of Africa.

4. There is a current trend towards the development and production of incendiary means of warfare having even greater destructive effects. This may well cause an intensification of the arms race as regards those weapons and their rapid spread.

5. In the light of these considerations, the Government of the Mongolian People's Republic fully associates itself with the views of the consultant experts as to the necessity of "working out measures for the prohibition of the use, production, development and stockpiling of napalm and other incendiary weapons" (A/8803, para. 193).

The Mongolian People's Republic will, in so far as it possibly can, actively assist in all measures aimed at the speedy and effective elimination from the arsenals of States of napalm and other incendiary weapons, which, both in their destructive and other properties and in their purpose, are scarcely distinguishable from weapons of mass destruction.

/...

NETHERLANDS

/Original: English/

/30 August 1973/

The report on napalm and other incendiary weapons (A/8803 and Corr.1) may, in the opinion of the Netherlands Government, be very helpful in future deliberations about possible international agreements aimed at restricting the use of napalm and other incendiary weapons as a means of warfare.

It does not seem very fruitful to explore the possibilities of banning the production and stockpiling of incendiaries since many of these weapons are simple to manufacture. Verification of such a ban would be virtually impossible. Better prospects would be offered if certain restrictions were put on the use of these weapons.

The Netherlands Government is of the opinion that restrictions on the use of incendiaries in armed conflicts should include the elimination of the use of these weapons on a massive scale. Massive use of napalm and other incendiary weapons could easily lead to widespread suffering of civilian populations because of its inherent indiscriminate effect.

Injuries caused by incendiaries may easily lead to unnecessary suffering by the victims. Accordingly, it would seem that this kind of warfare inasmuch as it affects human beings could come within the purview of article 23 (e) of the Hague regulations of 1907. Special attention should be given to the fact that injuries sustained from the action of incendiaries require exceptional resources for their medical treatment. Civilians in particular may suffer from this fact.

Incendiaries can be used successfully in certain military operations, for example against vehicles, wooden constructions, overground fuel depots and airplanes on the ground. Certain other military uses of incendiaries, such as in devices to produce smoke and in several types of anti-aircraft artillery shells, do not reasonably lend themselves to any kind of restriction.

In conclusion, the Netherlands Government is of the opinion that on humanitarian grounds certain restrictions on the use of napalm and other incendiary weapons should be explored, especially with a view to banning the indiscriminate use of those weapons against civilians and of preventing unnecessary suffering by civilians and combatants. Since one of the principal aims of international law applicable in armed conflicts is to prohibit or to limit the use of means of warfare which tend to cause unnecessary suffering and which have indiscriminate effects, the question of napalm and other incendiary weapons might usefully be tackled in connexion with the present efforts to reaffirm and develop this branch of international law. However, it might well be worth while to discuss restrictions on the use of incendiaries in the Conference of the Committee on Disarmament.

/...

NORWAY

/Original: English/

/11 September 1973/

In its comments of 14 October 1971 (A/8313/Add.3) on the two reports of the Secretary-General on human rights in armed conflicts (A/7720 and A/8052), the Norwegian Government, inter alia, made the following observation:

"The Norwegian Government is ... of the opinion that no evaluation can be made of the possible need for additional rules prohibiting weapons and methods of warfare before a comprehensive study of the weapons and methods of warfare in question and the effects of their possible use is submitted. It is only on the basis of such a study that Governments can evaluate whether the use of a given method or weapon is already prohibited under an existing rule and, if this is not the case, whether they desire to prohibit its use. In view of recent experience, the Norwegian Government holds the opinion that such a study should encompass modern weapons and weapon systems, including napalm, used inter alia in counter-guerrilla warfare, as well as the effects of their use."

Consequently the Norwegian Government welcomes the report on "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use", which covers some important aspects of the problem which the Norwegian Government earlier has recommended for a comprehensive study.

The report on "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use" has been referred to the Norwegian Defence Research Establishment (NDRE) for technical evaluation. In a report submitted to the Royal Norwegian Ministry of Foreign Affairs, the NDRE states as its main conclusion that "from a technical point of view the United Nations report provides an adequate and considered description of incendiary weapons and the effects of their possible use". The NDRE report emphasizes that chapters I to IV of the United Nations report "gives a sober and exhaustive survey of incendiary weapons, of their use, and of their effects".

In the evaluation of the indiscriminate effects of incendiary weapons, the NDRE report underlines - as a point of departure - the fact that all area weapons are indiscriminate in their effects. Nevertheless the NDRE endorses the view that incendiary weapons must be characterized as generally more indiscriminate in their effects than other conventional area weapons. This is due to the secondary fire created by incendiary weapons. Because of these fires, the effects of the use of incendiary weapons are considerably less controllable than the effects of other conventional area weapons.

The NDRE makes it clear that both incendiary weapons and many other conventional weapons create injuries which may be characterized as intensely painful. It is submitted, however, that the injuries caused by incendiary weapons are generally significantly more painful than those caused by other

/...

conventional weapons, and in addition there are the stronger psychological effects caused by incendiary weapons. A priori this assessment is supported by taking into consideration the time factor of the physical process whereby incendiary weapons inflict their damage, as compared with other conventional weapons. While the cause of injury by other conventional weapons is high velocity fragments or shock waves, incendiary weapons act through a relatively slow transmission of heat. The fact that most of the victims of incendiary weapons die or are injured as a result of the secondary fires and not through the possibly even more painful primary action of the incendiary chemicals does not in the view of NDRE essentially alter the general assessment of incendiary weapons as weapons causing extreme pain to the victims.

The NDRE report finally indicates that, in possible future endeavours to elaborate international agreements restricting the use of incendiary weapons, it might be useful in order to facilitate the achievement of some practical results to distinguish between larger area weapons, which act mainly through their incendiary effects, and weapons, typically of smaller calibre, which act mainly through their combined explosive and incendiary effect and are designed for attack on military targets.

The Norwegian Government has noted with considerable interest the statement made in paragraph 193 of the report by the group of consultant experts concerning the necessity of working out measures for the prohibition of the use, production, development and stockpiling of napalm and other incendiary weapons. The Norwegian Government holds the opinion that priority should for the time being be given to the endeavours to draft new international rules restricting or prohibiting the use of these weapons. This position is motivated by the fact that the use of these weapons always will be relatively easy to establish and that possible new rules prohibiting their use should consequently dispense with a new and complicated control organization. The question of the possible prohibition of the use of napalm and other incendiary weapons must necessarily be studied in the broader context of the possible need for new international rules restricting or prohibiting the use of both napalm and other incendiary weapons and of several other conventional weapons or weapon systems that may cause unnecessary suffering, have indiscriminate effects or lead to ecological changes. In this context, it should be noted that the International Committee of the Red Cross within a short while will publish a "report on the work of experts on weapons that may cause unnecessary suffering or have indiscriminate effects". Norwegian military, medical and legal experts have participated in the drafting of this report which in its final remarks states, inter alia, that:

"The facts compiled in the report in regard to these and other weapons speak for themselves and call for intergovernmental review and action. Such action might be justified particularly in respect of two types of weapons apart from incendiaries, namely, high velocity small arms ammunition and certain fragmentation weapons. The risks involved in their rapid proliferation and use would seem to constitute good reason for intergovernmental discussions concerning these weapons with a view to possible restrictions upon their operational use or even prohibition.

/...

It is appreciated that the technical difficulties involved in such discussion are considerable. Nevertheless, even in this regard, it would appear that several approaches to the solution of these problems may be open."

In the view of the Norwegian Government the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, which the Swiss Federal Council has proposed to convene in 1974, would offer the most suitable forum for a further study of this important matter. The Norwegian Government will therefore propose that the question be put on the agenda of the said Diplomatic Conference.

Reverting to the question of possible prohibitions of production, development, and stockpiling of napalm and other incendiary weapons, a possible obstacle to a satisfactory solution to this question appears to be indicated by the group of consultant experts in paragraph 184 of the report on "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use" where it is stated inter alia that "... Many of these weapons are extremely simple to manufacture, and the necessary raw materials are readily available the world over ...", and that "... This is particularly true for napalm weapons ...". These facts seem to indicate that it may be difficult to establish adequate control mechanisms to ensure the efficient implementation of possible prohibitions of production, development and stockpiling of the said weapons. Consequently, such prohibitions may easily create only an illusory safeguard against the use of such weapons in armed conflicts. This difficulty as well as the experiences from the Conference of the Committee on Disarmament of great difficulties in reaching agreement on bans on production, development and stockpiling of chemical weapons provide strong arguments in favour of focusing discussion in the first place on the prohibition of use, where the problem of verification and control should not cause too great difficulties. If total prohibition of use were attained as regards some or all incendiary weapons the question of possible prohibition of production, development and stockpiling could subsequently be taken up with greater hopes of success.

POLAND

[Original: English]
[25 September 1973]

1. The Government of the Polish People's Republic wishes to state that the report of the Secretary-General entitled "Napalm and Other Incendiary Weapons and All Aspects of Their Possible Use" (A/8803/Rev.1) has been received by it with great interest and studied with the care which this important document deserves.

2. As the previous reports of the Secretary-General related to the subject matter of disarmament, particularly those concerning the effects of the possible use of nuclear weapons and on chemical and bacteriological (biological) weapons - both prepared at the initiative of Poland and with the participation of Polish experts - the report on napalm and other incendiary weapons continues the series

/...

of valuable and authoritative studies that have been elaborated with the assistance of international groups of consultant-experts.

In the view of the Polish Government, reports of such nature contribute not only to a better understanding of the complex technical problems involved in such weapons but, first and foremost, by demonstrating the dire consequences of their use, serve to expose their inhuman character thus facilitating steps towards their prohibition or elimination.

3. The Government of the Polish People's Republic considers that the report can serve as a suitable basis for further consideration of the direction and manner of negotiating with a view to reaching an agreement on the prohibition of the use of incendiary weapons and, subsequently, their total elimination from military arsenals. In the view of the Polish Government the conclusions contained in the report should be further examined, taking into account views and suggestions expressed by Governments.

4. The Polish Government wishes to avail itself of this opportunity to express to the Secretary-General and the group of governmental consultant-experts its appreciation for the preparation of this comprehensive and valuable study and its submission to the General Assembly at its twenty-seventh session.

SWEDEN

/Original: English/

/5 June 1973/

The suggestion that a report on incendiary weapons might be prepared was originally made by the Secretary-General with the idea that such report "could facilitate subsequent action by the United Nations with a view to curtailing or abolishing such uses of the weapons in question as might be established as inhumane" (A/8052, para. 126). The Swedish Government is of the view that the report transmitted to the General Assembly by you in compliance with its request should facilitate such action.

Like the previous reports on nuclear weapons and BC weapons - which have served as models - it provides an excellent foundation of facts from which government discussions can start. It demonstrates that some attacks with these "conventional weapons" have proved as destructive as the atomic bombs. This evidence should point to the need for a more general survey and discussion of specific "conventional" weapons which may be particularly cruel or indiscriminate. The intense and justified preoccupation with ABC weapons needs to be broadened.

The recent debates under the auspices of the International Committee of the Red Cross concerning the reaffirmation and development of the international humanitarian law applicable in armed conflicts show that there exists a widely spread wish to examine the possibility of explicit bans or restraints on the use

/...

not only of napalm, but also of a number of other weapons, like high velocity weapons, some delayed action weapons, some mines, some fragmentation bombs etc. The same conclusion can be drawn from the debates at the United Nations General Assembly under the item "Human Rights in Armed Conflicts" under which the Secretary-General's report on incendiary weapons was requested.

There is an increasing interest among Governments and the public to examine a number of specific particularly cruel or indiscriminate weapons with a view to possible restrictions or prohibitions of use and/or bans on production, stockpiling and transfer. The resolution adopted by the General Assembly at its twenty-seventh session concerning incendiary weapons (2932 A (XXVII)) is but one expression of this preoccupation. Another expression is found in the request of the General Assembly under resolution 3032 (XVII) for a survey of existing rules of international law concerning the prohibition or restriction of use of specific weapons. Yet another is found in the preparation by the International Committee of the Red Cross of a factual report on military, medical and legal aspects of a number of types of specific weapons which might be deemed to cause unnecessary suffering or to be indiscriminate in their normal use.

In the opinion of the Swedish Government it is essential that the foundation thus laid in the compilation of facts should now be followed by efforts to map out possibilities for restrictions in or outright prohibitions of the use of certain weapons and methods of warfare. Although some of the present preoccupation stem from impressions gained of the cruelty or indiscriminate nature of specific weapons in recent conflicts, the efforts now needed are evidently forward-looking: the 1925 Geneva protocol concerning chemical and bacteriological weapons did not prevent suffering in the First World War, but helped to prevent the use of those weapons in the Second. The forthcoming twenty-eighth session of the General Assembly offers an opportunity to continue a discussion on the further efforts to be undertaken. These efforts might evidently aim at agreements on the prohibition of use of specific weapons or agreements on the elimination of production, stockpiling, etc. or both. It should be borne in mind, however, that the latter kind of action (disarmament proper) invariably raises very difficult problems of verification and control. These problems are much less pronounced in agreements on non-use. It should also be remembered that agreements on non-production etc. might be facilitated by prior agreements on non-use. For these reasons the Swedish Government is of the view that it would be desirable that the diplomatic conference which is expected to take place early in 1974 on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts should be so organized that proposals could be examined for prohibitions of use of weapons which are particularly inhumane as inflicting unnecessary suffering or being indiscriminate in their normal use.

Swedish experts examining the report have made the following detailed comments:

Chapter I. Incendiary agents and weapons

This chapter deals exhaustively with known incendiary weapons. In paragraph 48 the new generation of such weapons is mentioned. One must also, however, be concerned with the fact that further developments are taking place and that new weapons may be produced and even be used as replacements for napalm and phosphorus. There are also developments of new kinds of weapons. Shock-waves

from exploding gas or pulverous mixtures may for instance become increasingly used instead of fire (fuel air explosion).

Chapter II. Action of incendiary weapons and their non-medical effects

This chapter gives a very thorough description of the non-medical effects of incendiary weapons. The harmful effects which fire may have on the natural environment should be emphasized. In connexion with what is said in paragraph 9 on the effects of napalm and other incendiary weapons on military vehicles, it should be noted that armoured vehicles are increasingly being constructed in such a way as to be to an important degree invulnerable against these types of weapons. Hence the value of the use of incendiary weapons against armoured vehicles is diminishing.

Chapter III. Medical effects of incendiary weapons on individuals and populations

In general the description of injuries, caused by burning and their treatment is found correct. As concerns the effects of napalm, the report mentions that there are indications that the majority of the casualties die. It would, however, be desirable to obtain more precise information on the subject. In any case the cruelty of napalm as an anti-personal weapon remains beyond doubt both in lethal cases, where actual death may be delayed and in the non-lethal cases.

The terrible pain connected with burns has been stressed in the report, as well as the deformations and disabilities that mostly occur on surviving victims of incendiary weapons. It should be stressed that such medical effects as the severe shock caused to the victim, which are attributed in the report to napalm are also caused by other types of incendiary weapons.

Since the treatment of burn injuries requires considerable medical resources, the medical effects of incendiary weapons - apart from the immediate injury - are largely dependent on available resources for the treatment of those burned. With very advanced medical resources the possibilities of limiting these effects are incomparably better than where such costly resources are scarce, e.g. in less developed countries.

Chapter IV. Incendiary warfare and its consequences

The description given in this chapter of the use of different forms of incendiary warfare in the past and in the present is very revealing. It should be stressed that the effects of these weapons against troops in fortified positions is very limited. Against population centres and when used indiscriminately they have, on the other hand, a terrible effect. Specially the importance of napalm when massively employed against urban targets and other largely civilian targets is rightly stressed in the report. Ample evidence of these effects is included in the report in regard to the Second World War but few details of their use in the Korean or Indo-China conflicts are reported.

/...

The effect on civilian populations of such indiscriminate uses might have been further stressed in an even clearer way. In order to show the limited value of napalm on strictly military targets, one might also have added that military personnel can be trained to take preventive measures and can be supplied with protective clothing. It would be extremely difficult to give civilians similar instructions or protection. Hence it may be said that the effects of these weapons are the greatest where their direct military value appears most limited, namely, where civilians and civilian population centres are affected.

The bibliography, finally, contains a valuable list of the literature available on these weapons. An additional important source relating to the use of incendiary weapons during the Second World War which is not mentioned in the list is the "United States Strategic Bombing Survey".

The report, being prepared by technical and military experts, does not offer any assessment of the legality under existing law of incendiary weapons. Nor is such assessment necessary in discussions of possible agreements on explicit future restraints or prohibitions. (A discussion of legal aspects is found in the Interim Report on Napalm and Incendiary Weapons: Legal and Humanitarian Aspects, published by Stockholm International Peace Research Institute (SIPRI) 1972.) It might be noted, nevertheless, that some military manuals seem to reflect a view that certain restrictions in the use of incendiary weapons are incumbent upon belligerents. Thus, the military manual of the United Kingdom expresses - in a comment under section 110 - the view that:

"... The use of flame throwers and napalm bombs when directed against military targets is lawful. However, their use against personnel is contrary to the laws of war in so far as it is calculated to cause unnecessary suffering."

Other views concerning flame throwers can also be noted. In the treaty of 1919 between allied and associated Powers and Austria it was laid down that

"The use of flame throwers, asphyxiating, poisonous or other gases, being prohibited, their manufacture and importation are strictly forbidden in Austria." (Underlining supplied.)

The above quotations may suffice to show that despite widespread use of incendiary weapons there have also been doubts expressed about the extent of their legality. These doubts have probably been prompted by the same elements as may now be discerned in the Secretary-General's report militating in favour of the adoption of explicit restraints or prohibitions on the use of incendiary weapons:

1. Many incendiary weapons appear to cause a relatively high rate of lethality among their victims. This feature stands in some contradiction of the fundamental principle that means and methods of placing combatants out of action should be by the least injurious way possible. The St. Petersburg Declaration of 1868 sought to prevent not only arms the employment of which "uselessly aggravate the sufferings of disabled men" but also "those which render their death inevitable". Especially where large and advanced medical resources are unavailable, death will often be the inevitable result of grave burn injuries.

/...

2. Incendiary weapons cause injuries which typically involve intense and sustained pain and suffering. Even after healing, the mental and social suffering of burn victims often continues due to scarring and disfiguring.
3. Some incendiary weapons like those containing white phosphorus have direct toxic effects when they burn in the flesh of victims. Where oxygen is insufficient other incendiaries may produce carbon monoxide which often causes death. These toxic effects may perhaps be said to be incidental rather than intended. The primary destructive action of the weapons is that of fire, not that of poison. While, for that reason, it may be argued that the Geneva protocol on chemical and bacteriological weapons is not applicable, one cannot simply disregard these toxic effects. Their presence constitutes a strong argument among others in favour of prohibition of use of the incendiary weapons which produce them.
4. The psychological effects of the use of incendiaries is described in the report of the Secretary-General. They would seem to justify the conclusion that incendiaries used against human beings may be characterized as a terror weapon.
5. Incendiary weapons are per se indiscriminate, because fire is by its nature susceptible of spreading. The fact that in practice these indiscriminate effects may vary much depending upon the particular weapon used and the environment in which it is used does not change the basic fact.

The indiscriminate effects of these weapons are the worse, since civilians usually are much less able than military personnel to protect themselves against fire. The indiscriminate effects become shocking when they are not merely incidental but are the result of an employment of incendiary weapons which is itself indiscriminate, e.g. in massive use against population centres.

* * *

Together with the many elements which clearly speak in favour of a ban on the use of incendiary weapons, there must be considered the military utility of these weapons. Are any or all of these weapons indispensable? Their widespread use in the Second World War and subsequent armed conflicts would seem to point to their prima facie utility. The report of the Secretary-General indicates, however, that the effectiveness of incendiary bombing is great in residential areas, where their use is least justified and less good on fortified positions, where their employment is more easily justified.

While their usefulness against tanks and other armoured vehicles appears to have been great in the past, the modern construction of such vehicles increases their resistance against incendiaries. Hence, it may be said that even when employed against purely military targets, the effectiveness of incendiary weapons is the greatest, where their employment is the most questionable, namely, directly against persons and is the poorest, when their employment is more easily justified, namely, against fortified positions and tanks and other armoured vehicles. It is believed that for these cases alternative weapons do exist, since several modern armed forces fail to include incendiaries in their arsenals.

* * *

/...

The Swedish Government is of the opinion that early discussion should be undertaken at the international level with a view to seeking restraints or outright prohibitions of use of incendiary weapons. If there were general support for such action, the technical and legal difficulties should not be insuperable. Various approaches have been suggested in recent discussions.

One suggestion advanced at the 1972 ICRC expert conference by Swedish and other experts was to the effect that all incendiary weapons containing napalm or white phosphorus should be totally prohibited for use. While such a ban would include the most important and terrible incendiary weapons, the limitation appears too arbitrary and, therefore, unsatisfactory.

Another suggestion has been to the effect that air dropped incendiary weapons should be banned. This approach does have the merit that it would bar the use which is likely to have the worst effects for civilians, namely, bombardment from the air. It would not bar the use of flame throwers, incendiary mines or incendiary ammunition. While this construction has the advantage of being very simple, it is less satisfactory to logic. If the most important reasons for some restraint in the use of incendiary weapons lies in the high degree of suffering they cause, it should not matter whether the injury is caused by an air-dropped weapon or one set off from the ground.

A third approach was one tentatively indicated by Swedish and other experts at the 1971 ICRC expert conference, viz., the prohibition of use of incendiary weapons in circumstances where they may affect civilians. This construction has the merit of protecting the civilians from every use of incendiaries, whether air-dropped or ground-fired. The short-comings of this construction is rather that it is not so simple and clear-cut to apply as a total ban or ban on all air-dropped incendiaries would be. It is apt to cause controversies in practice.

The most satisfactory solution would appear to be that of a total prohibition of use of all incendiary weapons. The most important rationale, the suffering caused, is present for all these weapons and is present whether their victims are civilians or soldiers. This is the approach which was tried at the League of Nations Disarmament Conference in 1932-33. Indeed, there was very substantial agreement on a British draft disarmament convention of 16 March 1933 which would have contained an article declaring it to be an established rule of international law that the use of chemical, incendiary or bacterial weapons was prohibited. The ban would not have applied to projectiles specially designed to give light, nor could it have prevented the use of incendiaries as a retaliation in kind. (An account is found in the SIPRI report, mentioned above.)

The draft prohibitions of use of the early 1930s might be used as a starting point for new discussions. It was primarily the deterioration of the international political climate in the 1930s which prevented their adoption. It is hoped that the present juncture should prove more propitious. The experiences from the Conference of the Committee on Disarmament of great difficulties in reaching agreement on bans on production, stockpiling, etc. of chemical weapons, is a strong argument, however, in favour of focusing discussion in the first place on prohibitions of use, where the problem of verification and control should not

cause too great difficulties. If total prohibition of use were attained as regards some or all incendiary weapons the question on ban on production and stockpiling, etc. could subsequently be taken up with greater hopes of success.

SYRIAN ARAB REPUBLIC

[Original: English]
[31 July 1973]

The Permanent Representative of the Syrian Arab Republic presents his compliments to the Secretary-General of the United Nations and with reference to his note dated 8 January 1973, has the honour to point out that the Government of the Syrian Arab Republic, having studied the report on napalm and other incendiary weapons and all aspects of their possible use (A/8803 and Corr.1), endorses all the provisions contained in the report, and in particular, those concerning the ban on all these weapons.

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: Russian]
[7 August 1973]

The position of the Soviet Union with regard to napalm and other incendiary weapons was taken into consideration in the preparation of the Secretary-General's report on napalm and other incendiary weapons and all aspects of their possible use, one of whose authors was an expert appointed by the USSR Government. As to what measures might be taken in respect of napalm and other incendiary weapons, that question requires further careful study, taking account, in particular, of the comments that may be made by States in reply to the relevant inquiry by the Secretary-General of the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]
[4 October 1973]

The United Kingdom has taken note of the information presented in the report, and of the definition of incendiary weapons which it provides, viz. weapons designed to inflict damage on an enemy primarily through the action of heat and flame, by means of incendiary substances, these substances being defined as those which affect their target primarily through the action of heat or flame derived from self-supporting and/or self-propagating exothermic chemical reactions, which, for all practical purposes, are combustion reactions.

The statement in the report that the use of incendiary weapons is likely

/...

to cause unnecessary suffering raises important issues. There is a rule of international law which finds expression in the Hague Regulations of 1907 concerning the laws and customs of war on land, that belligerents do not have an unlimited right as to the choice of means of injuring the enemy and article 23 of the Hague Regulations (1907) states that it is particularly forbidden to employ arms, projectiles or materials calculated to cause unnecessary suffering. The British Manual of Military Law accordingly notes that the use of flame throwers and napalm bombs, though lawful when directed against military targets, is contrary to the law of war when used against personnel in so far as it is calculated to cause unnecessary suffering. The operational plans of the armed forces of the United Kingdom are wholly in accordance with this provision.

If it is the wish of a majority of States that there should be further consideration of the control of incendiary weapons, this might concentrate upon the question of what uses of incendiary weapons may be deemed to cause unnecessary suffering. It is clear from the Secretary-General's report that such consideration would require careful examination of a wide range of military, technical, medical and legal factors.

UNITED STATES OF AMERICA

[Original: English]
[10 September 1973]

As you will recall, the United States did not participate in the preparation of the report, and my Government prefers not to offer any comment upon it.
