



UN LIBRARY

OCT 26 1979

Distr.
GENERAL

A/CONF.95/8
8 October 1979

ORIGINAL: ENGLISH

UNITED NATIONS
GENERAL
ASSEMBLY



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

Geneva, 10-28 September 1979

REPORT OF THE CONFERENCE TO THE GENERAL ASSEMBLY

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. Introduction	1 - 4	4
II. Organization of the Conference	5 - 12	5
III. Participation in the Conference	13 - 14	5
IV. Work of the Conference	15 - 22	6

Annexes

I. Report of the Committee of the Whole	1 - 15	9
Introduction	1 - 4	9
A. Landmines and booby-traps.	5 - 8	9
B. Incendiary weapons	9 - 12	10
C. Non-detectable fragments	13	10
D. Other categories of weapons.	14 - 15	11
Appendix A. Draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as approved by the Committee of the Whole		12
Appendix B. Report of the Working Group on Landmines and Booby-Traps . .		17

CONTENTS (continued)

	<u>Page</u>
Attachment 1 Draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as approved by the Working Group on Landmines and Booby-Traps	21
Attachment 2 Proposals submitted by Morocco	22
Part A. Annex to the Protocol	22
Part B. Increased protection for children against certain effects of conventional weapons	22
Attachment 3 Statement made by the Executive Secretary on behalf of the Secretary-General of the United Nations in connexion with subparagraphs 3 (a) and (b) of article 3 of the draft Protocol	24
Appendix C. Report of the Working Group on Incendiary Weapons	25
Attachment 1 Draft Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons, as submitted by the Working Group on Incendiary Weapons .	28
Attachment 2 Proposals regarding the protection of combatants	31
Part A. By the Union of Soviet Socialist Republics	31
Part B. By Indonesia	31
Part C. By Nigeria	31
Part D. By Jordan	31
Appendix D. Additional proposals concerning incendiary weapons	32
Part A. Draft Protocol on Incendiary Weapons, submitted by Austria, Egypt, Ghana, Jamaica, Mexico, Romania, Sweden, Switzerland, Venezuela, Yugoslavia and Zaire	32
Part B. Draft Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons, submitted by Australia and the Netherlands	33

CONTENTS (continued)

	<u>Page</u>
Appendix E. Draft resolution on small calibre weapon systems, recommended by the Committee of the Whole for adoption by the Conference (not reproduced, because identical to the text in annex III)	
II. Report of the Conference Working Group on a General Treaty	35
Appendix A. Outline of a Draft Convention	39
Appendix B. Informal papers on amendments and additional rules	44
Part 1. By Austria, Canada, Denmark, Finland, Ireland, Mexico, the Netherlands, Norway, Sweden and Switzerland	44
Draft article	44
Part 2. By France	44
a. Draft article	44
b. Draft paragraphs for the report of the Conference	45
Part 3. By Bulgaria, the German Democratic Republic and Poland	46
Draft article	46
Part 4. By the Union of Soviet Socialist Republics	47
a. Draft article	47
b. Draft paragraphs for the report of the Conference	48
Part 5. By the United Kingdom	48
a. Draft article	48
b. Draft resolution for adoption by the Conference	49
Appendix C. Proposal for a draft article on amendments, submitted by Australia, Canada, Denmark, the Federal Republic of Germany, Ireland, the Netherlands, Norway, Spain, the Sudan, Sweden, the United Kingdom and the United States	50
III. Resolution on small calibre weapons systems, adopted by the Conference at its 7th plenary meeting on 28 September 1979	51

I. INTRODUCTION

1. The General Assembly, noting resolution 22 (IV) on follow-up regarding prohibitions or restrictions of use of certain conventional weapons adopted by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts on 7 June 1977, decided, by its resolution 32/152 of 19 December 1977, to convene in 1979 a United Nations Conference with a view to reaching agreements on prohibitions or restrictions of the use of specific conventional weapons, including those which may be deemed to be excessively injurious or have indiscriminate effects, taking into account humanitarian and military considerations, and on the question of a system of periodic review of this matter and for consideration of further proposals.
2. By the same resolution, the General Assembly decided to convene a Preparatory Conference for the 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 and recommended that the Preparatory Conference should meet once in 1978 for organizational purposes and, subsequently, with the task of establishing the best possible substantive basis for the achievement at the United Nations Conference of agreements as envisaged in resolution 32/152 and of considering organizational matters relating to the holding of the United Nations Conference. The General Assembly further requested the Secretary-General to transmit invitations to the Preparatory Conference to all States and parties invited to attend the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.
3. The first session of the Preparatory Conference met at the Palais des Nations in Geneva from 28 August to 15 September 1978. It decided, subject to confirmation by the General Assembly, to hold a second session, and recommended to the Assembly that the United Nations Conference be convened at Geneva from 10 to 28 September 1979. ^{1/} The General Assembly, by resolution 33/70 of 14 December 1978, took note of the report of the Preparatory Conference on its first session, endorsed its decision to hold a second session and the recommendation concerning the convening of the United Nations Conference.
4. The second session of the Preparatory Conference was convened at the Palais des Nations in Geneva from 19 March to 12 April 1979. The Preparatory Conference adopted reports of a Working Group to consider draft proposals on non-detectable fragments and on the regulation of the use of landmines and other devices, of a Drafting Group on Incendiary Weapons and of an Informal Working Group on Small Calibre Weapons Systems (A/CONF.95/3, respectively annexes II, III and IV), and it also recommended for further study by States and discussion during the United Nations Conference questions concerning fuel-air explosives, anti-personnel fragmentation weapons and flechettes. It recommended that the question of concluding a general treaty with optional protocols or clauses be assigned to a subsidiary organ of the United Nations Conference. Furthermore, it recommended to the United Nations Conference a provisional agenda (A/CONF.95/1) and a set of provisional rules of procedure (A/CONF.95/2).

^{1/} See Official Records of the General Assembly, Thirty-third Session, Supplement No. 44 (A/33/44).

II. ORGANIZATION OF THE CONFERENCE

5. The Conference was convened on 10 September 1979 at the Palais des Nations in Geneva for a three-week session. Mr. Luigi Cottafavi, Director-General of the United Nations Office at Geneva, opened the Conference and read out a message from the Secretary-General to the Conference.
6. Ms. Amada Segarra was the Executive Secretary of the Conference. Mr. Paul Szasz acted as Legal Adviser.
7. At its first plenary meeting, the Conference appointed as its President Ambassador Oluyemi Adeniji, Permanent Representative of Nigeria to the Office of the United Nations and Other International Organizations at Geneva.
8. At its third plenary meeting, the Conference appointed 11 Vice-Presidents from the following States: Colombia, Egypt, India, Indonesia, Jamaica, Mexico, Sweden, Union of Soviet Socialist Republics, United States of America, Yugoslavia and Zaire. At the same meeting, Mr. Robert J. Akkerman of the Netherlands was appointed as Rapporteur of the Conference, Ambassador Petar Voutov, Permanent Representative of Bulgaria to the United Nations Office at Geneva, as Chairman of the Committee of the Whole, and Ambassador Jamsheed K. A. Marker, Permanent Representative of Pakistan to the United Nations Office at Geneva, as Chairman of the Drafting Committee.
9. At its first plenary meeting, the Conference, on the recommendation of the President, appointed the following five members of the Credentials Committee: Ecuador, Morocco, Poland, Syrian Arab Republic and United States of America.
10. Also at its first plenary meeting the Conference decided to establish a Conference Working Group on a General Treaty and, subsequently, at its third plenary meeting appointed Ambassador Antonio de Icaza (Mexico) as Chairman of that Working Group.
11. At its third plenary meeting, the Conference appointed the following 10 members of the Drafting Committee: Brazil, France, German Democratic Republic, Hungary, Kenya, Pakistan, Peru, Philippines, Spain and Sudan. Ambassador Jamsheed K. A. Marker (Pakistan) served as Chairman of the Committee.
12. At its first meeting, the Committee of the Whole established a Working Group on Landmines and Booby-Traps and a Working Group on Incendiary Weapons. At its second meeting the Committee appointed Mr. Robert J. Akkerman (Netherlands) as Chairman of the Working Group on Landmines and Booby-Traps and Lt.-Col. R. Felber (German Democratic Republic) as Chairman of the Working Group on Incendiary Weapons.

III. PARTICIPATION IN THE CONFERENCE

13. Representatives of 82 2/ States and of a number of observers participated in the Conference.

2/ Subsequent to consideration by the Conference of the report of the Credentials Committee (see para. 14 below), the representatives of one additional State started to participate in the Conference.

14. The Credentials Committee met on 27 September 1979 and appointed Major Mohamed Arrassen (Morocco) Chairman. The Committee noted, on the basis of a report submitted by the Executive Secretary, that the credentials of a considerable number of the 81 States participating in the Conference had not yet been received in proper order in conformity with rule 3 of the rules of procedure of the Conference. The Committee recommended in its report to the Conference (A/CONF.95/5) that all delegations take appropriate measures to ensure that their credentials are in order by the beginning of the next session of the Conference. The Committee further decided, in view of the limited time available at this session of the Conference, not to proceed at this time with the verification of the credentials submitted to date. At its seventh plenary meeting the Conference took note of the report of the Credentials Committee.

IV. WORK OF THE CONFERENCE

15. At its first plenary meeting the Conference adopted the agenda contained in document A/CONF.95/1.

16. Also at its first plenary meeting the Conference adopted the rules of procedure contained in document A/CONF.95/2.

17. The Conference had before it as the basic proposals for its consideration, in accordance with rule 28 of its rules of procedure, the draft proposals submitted to the Conference by the Preparatory Conference (A/CONF.95/3, annexes I-IV). The Conference assigned to the Committee of the Whole the consideration of the basic proposals. The Committee of the Whole entrusted to its Working Group on Landmines and Booby-Traps the consideration of draft articles for a protocol on the regulation of the use of landmines and other devices that had been proposed by the Preparatory Conference (A/CONF.95/3, annex II, appendix B), and to its Working Group on Incendiary Weapons the consideration of the Report of the Preparatory Conference's Drafting Group on Incendiary Weapons (A/CONF.95/3, annex III), as well as all the proposals on the subject submitted to the Preparatory Conference (A/CONF.95/3, annex I, parts A, D, K, L, M and O).

18. The Conference entrusted to its Working Group on a General Treaty the preparation of the text of a convention to which optional protocols or clauses embodying prohibitions or restrictions of use of certain conventional weapons deemed to be excessively injurious or to have indiscriminate effects would be attached.

19. The Conference held eight plenary meetings (A/CONF.95/SR.1 to 8). At its seventh plenary meeting the Conference took note of the report of the Conference Working Group on a General Treaty submitted by its Chairman (A/CONF.95/7), which is reproduced in annex II. At the same meeting the Conference took note of the report of the Committee of the Whole submitted by its Chairman (A/CONF.95/6), which included the reports of the Working Group on Landmines and Booby-Traps and the Working Group on Incendiary Weapons. The report of the Committee of the Whole is reproduced in annex I.

20. On the recommendation of the Committee of the Whole, the Conference, at its 7th plenary meeting, adopted a resolution on small calibre weapons systems, the text of which appears in annex III.

21. The work on a general treaty could not be completed due to the fact that the task of formulating a text on the subject only began at this Conference; furthermore, the task was made more difficult as a result of the delicate and complex issues involved. In addition, considerable work remains to be accomplished with respect to the question of prohibitions or restrictions of use of incendiary weapons, and a few differences remain even in respect of mines and booby-traps. Finally, no conclusions were reached on proposals on anti-personnel fragmentation weapons, on flechettes and on fuel-air explosive weapons, which were not examined extensively.

22. In view of the foregoing the Conference recommends to the General Assembly that it convene another session of the 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 to meet in Geneva for a period of up to four weeks, starting on 15 September 1980. It was the understanding of the Conference that issues on which agreement had already been achieved should not be reopened at the forthcoming session, so that all efforts may be concentrated on working out agreements on outstanding issues, and that there will not be any general debate at the opening of that session.

ANNEX I*

REPORT OF THE COMMITTEE OF THE WHOLE

Introduction

1. At its 1st plenary meeting, on 10 September 1979, the Conference, in accordance with rule 33 of its rule of procedure, referred the reports containing texts concerning certain conventional weapons that had been submitted to the Conference by the Preparatory Conference (A/CONF.95/3, annexes I-IV), to the Committee of the Whole, which, in turn, could establish working groups as appropriate.
2. The Committee held nine meetings, the summary records of which are set out in documents A/CONF.95/CW/SR.1 to 9. The Committee was chaired by Mr. Peter Voutov (Bulgaria), who had been appointed by the Conference pursuant to Rule 6 of the Rules of Procedure.
3. At its first meeting, on 12 September, the Committee decided, in view of the fact that a solid basis for an agreement on certain categories of weapons had been laid during the Preparatory Conference, to establish a Working Group on Landmines and Booby-Traps and a Working Group on Incendiary Weapons. At its second meeting, on 13 September, the Committee appointed Mr. Robert J. Akkerman (Netherlands) as Chairman of the Working Group on Landmines and Bobby-Traps and Lt.-Col. R. Felber (German Democratic Republic) as Chairman of the Working Group on Incendiary Weapons.
4. At its 9th meeting, on 27 and 28 September, the Committee adopted the present report on its work, on the basis of a draft submitted by its Chairman (A/CONF/95/CW/CRP.2).

A. Landmines and booby-traps

5. At its 1st meeting the Committee referred to its Working Group on Landmines and Booby-Traps the "Proposal on the regulation of the use of landmines and other devices: draft articles for a treaty" submitted to the Conference by the Preparatory Conference (A/CONF.95/3, annex II, appendix B). At its 4th meeting, on 18 September, the Committee received a proposal from the representative of Morocco concerning increased protection for children against effects of certain conventional weapons, which the Committee also referred to the Working Group (A/CONF.95/CW/WG.1/L.2).
6. At the 6th meeting of the Committee, on 25 September, the Chairman of the Working Group on Landmines and Booby-Traps submitted a report on the results of the Group's work in the form of a "Draft Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices" (A/CONF.95/CW/1), which was discussed at that meeting of the Committee.

* Originally A/CONF.95/6.

7. At the same meeting the question of subparagraph (3) (c) of article 3 of the Draft Protocol, as to which no agreement had been achieved in the Working Group, was referred to informal consultations convened by Mr. N. H. Marshall (United Kingdom). The latter reported, at the 7th meeting, on 26 September, certain suggestions concerning subparagraphs (3) (a) and (c) of article 3, 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 appendix A to this report.

8. At its 9th meeting the Committee received the formal report of the Working Group on Landmines and Booby-Traps (A/CONF.95/CW/1/Rev.1/Add.1), which constitutes, together with the Draft Protocol prepared by the Group, appendix B to this report.

B. Incendiary weapons

9. At its first meeting the Committee referred to its Working Group on Incendiary Weapons the "Working paper of the Drafting Group on Incendiary Weapons on elements of an agreement on incendiary weapons" submitted to the Conference by the Preparatory Conference (A/CONF.95/3, annex III).

10. At the 7th meeting of the Committee, the Chairman of the Working Group on Incendiary Weapons submitted a report on the results of the Group's work in the form of a "Draft Protocol on Prohibitions or Restrictions of the Use of Incendiary Weapons" (A/CONF.95/CW/2), which was discussed at that meeting. The Committee decided to refer the Draft Protocol to the Conference.

11. At the same meeting a proposal sponsored by Austria, Egypt, Ghana, Jamaica, Mexico, Romania, Sweden, Switzerland, Venezuela, Yugoslavia and Zaire, for a "Draft Protocol on Incendiary Weapons" (A/CONF.95/CW/L.1 and Add.1) was introduced. At the 9th meeting a proposal sponsored by Australia and the Netherlands, for a "Draft Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons" (A/CONF.95/CW/L.3) was introduced. These two proposals appear in appendix D to this report.

12. At its 9th meeting the Committee received the formal report of the Working Group on Incendiary Weapons (A/CONF.95/CW/2/Add.1), which constitutes, together with the Draft Protocol prepared by the Group, appendix C to this report.

C. Non-detectable fragments

13. At its 3rd meeting the Committee decided to refer to the Drafting Committee the "Draft proposal concerning non-detectable fragments" on which unanimous agreement had been reached at the Preparatory Conference (A/CONF.95/3, annex II, appendix A). As the Drafting Committee did not meet during the present Conference, it submitted no report to the Committee of the Whole on this item.

D. Other categories of weapons

14. At its 1st meeting the Committee decided that other categories of weapons that delegations might wish to discuss could be taken up at subsequent meetings of the Committee. Consequent on that decision, a general discussion concerning several categories of weapons (small calibre projectiles, fuel-air explosives and certain fragmentation weapons) took place at the 5th meeting, on 21 September.

15. At the 8th meeting, on 27 September, the representative of Sweden introduced, also on behalf of Egypt, Ireland, Jamaica, Mexico, Switzerland and Uruguay, a "Draft Resolution on Small Calibre Weapon Systems" (A/CONF.95/CW/L.2), which was discussed at that meeting and to which a number of oral amendments were proposed (recorded in the summary records). Discussion was resumed at the 9th meeting on the basis of a revised proposal (A/CONF.95/CW/L.2/Rev.1). After further discussion and revision, the text recorded in appendix E a/ hereto was recommended for adoption by the Conference.

a/ That appendix is not reproduced in this annex, because the text proposed by the Committee of the Whole was adopted without change by the Conference and appears in annex III.

APPENDIX A

DRAFT PROTOCOL ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF
MINES, BOOBY-TRAPS AND OTHER DEVICES

As approved by the Committee of the Whole

Article 1. Material scope of application

This Protocol relates to the use on land of the mines, booby-traps and other devices defined therein, including mines laid to interdict beaches, waterway crossings or river crossings but does not apply to the use of anti-ship mines at sea or in inland waterways.

Article 2. Definitions

For the purpose of this Treaty:

(1) "mine" means any munition placed under, on or near the ground or other surface area and designed to be detonated or exploded by the presence, proximity or contact of a person or vehicle; "remotely delivered mine" means any mine delivered by artillery, rocket, mortar or similar means or dropped from an aircraft;

(2) "booby-trap" means any device or material which is designed, constructed or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) "other devices" means manually-emplaced munitions and devices designed to kill, injure or damage and which are actuated by remote control or automatically after a lapse of time;

(4) "military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization in the circumstances ruling at the time, offers a definite military advantage.

(5) "recording" is a physical, administrative and technical operation designed to obtain, for the purpose of registration in the official records all available information facilitating the location of mine-fields, mines and booby-traps;

Article 2 bis General restrictions on the use of mines, booby-traps and other devices

1. This Article applies to:

- (a) mines;
- (b) booby-traps; and
- (c) other devices.

/...

2. It is prohibited in any circumstances to direct weapons to which this Article applies, either in offence, defence or by way of reprisals, against the civilian population as such or against individual civilians.
3. The indiscriminate use of weapons to which this Article applies is prohibited. Indiscriminate use is any placement of such weapons:
 - (a) which is not on, or directed against, a military objective; or
 - (b) which employs a method or means of delivery which cannot be directed at a specific military objective; or
 - (c) which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.
4. All feasible precautions shall be taken to protect civilians from the effects of weapons to which this Article applies. "Feasible precautions" are those which are practicable or practically possible taking into account humanitarian and military considerations.

Article 3. Recording and publication of the location of minefields, mines and booby-traps

1. The parties to a conflict shall record the location of:
 - (a) all pre-planned minefields laid by them; and
 - (b) all areas in which they have made large-scale and pre-planned use of booby-traps.
2. The parties shall endeavour to ensure the recording of the location of all other minefields, mines and booby-traps which they have laid or placed in position.
3. All such records shall be retained by the parties, who shall:
 - (a) as soon as possible after the cessation of active hostilities make available to each adverse party and to the Secretary-General of the United Nations all information in their possession concerning the location of minefields, mines and booby-traps in the territory of such adverse party /other than territory under the control of their own forces or allied forces/; and
 - (b) as soon as possible, whenever after the cessation of active hostilities their own forces or allied forces withdraw from the whole, or any part, of the territory of any adverse party which those forces had controlled, make available, to such adverse party and to the Secretary-General of the United Nations, all information in their possession concerning the location of minefields, mines and booby-traps in the area from which those forces had withdrawn; and

/...

- (c) when United Nations forces or missions perform functions in any area or areas, make available to the authority mentioned in Article 3 bis such information as is required by that Article.

Article 3 bis. Protection of United Nations missions from the effects of minefields, mines and booby-traps

1. When United Nations forces or missions perform functions of peacekeeping, observation or similar functions in any area or areas, each party to the conflict shall, if requested by the head of the United Nations force or mission in that area, as far as it is able, (a) remove or render harmless all mines or booby-traps in the area or areas, (b) shall take such measures as may be necessary to protect the force or mission from the effects of minefields, mines and booby-traps while carrying out its duties and, (c) make available to the head of the United Nations force or mission in that area, all information in the party's possession concerning the location of minefields, mines and booby-traps in that area or those areas.

2. When a United Nations fact-finding mission performs functions in an area or areas, any party to the conflict concerned shall provide protection to fact-finding missions except where because of the size of such missions it cannot adequately provide such protection, in which case it shall make available to the head of the mission the information in its possession concerning the location of minefields, mines and booby-traps in that area or areas.

Article 3 ter International co-operation in the removal of minefields, mines and booby-traps

After the cessation of active hostilities, the parties shall endeavour to reach agreement, both among themselves and, where appropriate, with other States and with international organizations, upon the provision of information and technical and material assistance - including, in proper circumstances, joint operations - necessary to remove or otherwise render ineffective minefields, mines and booby-traps placed in position during the conflict.

Article 4. Restriction on the use of remotely delivered mines*

1. The use of remotely delivered mines is prohibited unless such mines are only used within an area which is itself a military objective or which contains military objectives, and unless (a) their location can be accurately recorded in accordance with Article 3(1)(a) above or (b) each such mine is fitted with an effective neutralizing mechanism, that is to say a self-actuating or remotely controlled mechanism which is designed to render a mine harmless or cause it to destroy itself when it is anticipated that the mine will no longer serve the military purpose for which it was placed in position.

* The delegation of Yugoslavia suggested that paragraph (1) of Article 4 should read as follows: "1. The indiscriminate use of remotely delivered mines is prohibited.", and it therefore reserved its position on that paragraph.

2. Effective advance warning shall be given of any delivery or dropping of remotely delivered mines which may affect the civilian population, unless circumstances do not permit.

Article 5. Restrictions on the use of mines, booby-traps and other devices in populated areas

1. This Article applies to:

- (a) mines (other than remotely delivered mines);
- (b) booby-traps; and
- (c) other devices.

2. It is prohibited to use weapons to which this Article applies in any city, town, village or other area containing a similar concentration of civilians in which combat between ground forces is not taking place or does not appear to be imminent, unless either:

- (a) they are placed on or in the close vicinity of a military objective belonging to or under the control of an adverse party; or
- (b) measures are taken to protect civilians from their effects, for example the posting of warning signs, the posting of sentries, the issue of warnings or the provision of fencing.

Article 6. Prohibition on the use of certain booby-traps

1. Without prejudice to the rules of international law applicable in armed conflict relating to treachery and perfidy, it is prohibited in any circumstances to:

- (a) any booby-trap in the form of an apparently harmless portable object which is specifically designed and constructed to contain explosive material and to detonate when it is disturbed or approached, or
- (b) booby-traps which are in any way attached to or associated with:
 - (i) Internationally recognized protective emblems, signs or signals;
 - (ii) Sick, wounded or dead persons;
 - (iii) Burial or cremation sites or graves;
 - (iv) Medical facilities, medical equipment, medical supplies or medical transportation;
 - (v) Children's toys and other portable objects or products specially designed for the feeding, health, hygiene, clothing and education of children;

/...

- (vi) Food or drink;
- (vii) Kitchen utensils and appliances (except in military establishments, military locations and military supply depots);
- (viii) Objects clearly of a religious nature;
- (ix) Historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
- (x) Animals or their carcasses.

2. It is prohibited in any circumstances to use any booby-trap that is designed to cause superfluous injury or unnecessary suffering.

APPENDIX B*

REPORT OF THE WORKING GROUP ON LANDMINES AND BOOBY-TRAPS

INTRODUCTION

1. At its 1st meeting, on 12 September 1979, the Committee of the Whole established a Working Group on Landmines and Booby-Traps and assigned to it the consideration of the "Proposal on the regulation of the use of landmines and other devices: draft articles for a treaty" set out in appendix B to the report of the Working Group of the Preparatory Conference (A/CONF.95/3, annex II). At its 2nd meeting, the Committee of the Whole appointed Mr. Robert J. Akkerman (Netherlands), Rapporteur of the Conference, to be the Chairman of the Working Group. Mr. Sohrab Kheradi served as the Secretary of the Working Group.
2. The Working Group held a total of 11 formal meetings between 14 and 27 September as well as a number of informal meetings. In the course of the meetings it received proposals regarding the draft articles from Morocco (A/CONF.95/CW/WG.1/L.2-5). In response to a reminder recorded by the Preparatory Conference, the Secretariat submitted a note suggesting a revision of subparagraph (3)(a)(iv)* of article 3 and the introduction of a new article 3 bis (A/CONF.95/CW/WG.1/L.1). On the basis of the discussions in the Working Group, the Chairman submitted a draft of subparagraph (3)(a)(iii) a/ of article 3 (A/CONF.95/CW/WG.1/CRP.1) and of article 4 (A/CONF.95/CW/WG.1/L.7), and, on 24 September, a proposal containing the text of the substantive provisions of the draft Protocol (A/CONF.95/CW/WG.1/L.6).
3. At its 10th meeting on 25 September, the Working Group approved, for submission to the Committee of the Whole, the text of the substantive provisions of the draft Protocol (attachment 1). At its final meeting on 27 September, the Working Group adopted its report as contained in the present document, based on a draft prepared by the Chairman (A/CONF.95/CW/WG.1/CRP.2).
4. Certain proposals made and discussions held in respect of particular articles are summarized below.

Article 1. Material scope of application

5. The material scope of application of the draft Protocol excludes the applicability to anti-ship mines at sea or in inland waterways so as not to interfere with existing rules of international law relating to the use of those devices. It includes, however, applicability to the use of all mines in what is generally considered to fall within the limits of land-warfare, including interdiction of beaches, waterway crossings or river crossings.

* Originally A/CONF.95/CW/1/Rev.1/Add.1.

a/ As numbered in the draft submitted by the Preparatory Conference.

Article 2. Definitions

6. As to paragraph (1) of the article, it was understood that the term "aircraft" was to be interpreted as including, apart from fixed-wing aircraft, also helicopters, drones, remotely-piloted vehicles, balloons and similar flying vehicles. One delegation spoke in favour of a definition on "cessation of active hostilities" with regard to article 3. The general feeling in the Working Group was, however, that it was not feasible to reflect the doctrine on the term in a simple, straightforward definition.

7. One delegation suggested that the phrase "with respect to such an object" be added to the definition of "booby-trap" so as to read as follows:

"(2) 'booby-trap' means any device or material which is designed, constructed or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act with respect to such an object;"

This delegation suggested that the present text was somewhat broad and could be taken to include mines not normally regarded as booby-traps. Other delegations were of the view that the language was sufficiently precise. It was generally agreed that the phrase "apparently safe act" refers to any act, whether intentional or unintentional, in respect of a booby-trap itself. For example, in the case of a booby-trapped doorway, opening the door would be an apparently safe act with respect to the door.

8. Another delegation proposed in relation to paragraph 5, an annex to the draft Protocol to deal with the means and methods of recording (the proposal appears as part A of attachment 2 to this report); there was no opposition expressed to the view that attaching a technical annex on recording to the draft Protocol, was desirable. There was, however, a general feeling in the Group that the details of the proposal required further study. It was observed that practices with respect to recording differ considerably from country to country. One delegation expressed the view that the obligation envisaged in paragraph (2) of article 3 was not sufficiently covered by the proposed annex. Another delegation expressed the view that the annex should accurately reflect that the conditions of minelaying were secondary to the primary obligation of recording.

Article 2 bis. General restrictions on the use of mines, booby-traps and other devices

9. This article was basically drawn from article 51 of Additional Protocol I to the 1949 Geneva Convention. Without departing from the legal concepts expressed in the latter article, the proposed provisions apply the language of article 51 to the use of mines, booby-traps and other devices as defined in article 2 of the draft Protocol. As follows from article 51, paragraph 3 of the Additional Protocol, civilians taking a direct part in active hostilities would not be protected by paragraph (2) of article 2 bis. The reference in paragraph 4 of the article was drawn from article 57 of the Additional Protocol.

Article 3. Recording and publication of the location of minefields, mines and booby-traps

10. Subparagraph (3)(c), unfortunately, could not be agreed upon in the Working Group. A number of delegations preferred the text as set out in the report of the Preparatory Conference b/ and were therefore in favour of the first alternative contained between square brackets. These delegations could not accept the second alternative because it entailed a mandatory requirement for those situations in which the only defensive means counterbalancing foreign occupations of one's own territory would consist of the minefields, mines and booby-traps remaining in the territory occupied by the adverse party. It was also argued by some of these delegations that in those situations, a permanent cessation of hostilities could not be considered to have been achieved.

11. Other delegations, commenting on the first alternative, pointed to the inherent dangers for one's own civilians in territory occupied by the adverse party. Some delegations among the latter, while not being able to accept the first alternative, expressed preference for the second alternative contained between square brackets. Delegations favouring the second alternative argued that it was illogical to continue mine warfare after the effective and permanent cessation of hostilities, and that humanitarian concerns dictated the disclosure of the location of mines at that time.

12. A number of delegations voiced the hope that a solution of this problem could be found in the further course of the Conference.

13. In connexion with subparagraph (3) (a) and (b), the Executive Secretary made a statement, the text of which appears in attachment 3.

Article 3 ter. International co-operation in the removal of minefields, mines and booby-traps

14. One delegation maintained its preference for a text that it had advocated as early as in the Preparatory Conference, which read as follows: c/

"(b) Any party which, during a conflict, placed minefields, mines or booby traps or a combination thereof, on the territory of another party, shall be obliged to provide technical and material assistance to remove them or render them ineffective after the cessation of active hostilities. This obligation is:

b/ A/CONF.95/3, annex II, appendix B, article 3, para. (3) (a) (iii).

c/ The numbering reflects the original position in the draft submitted by the Preparatory Conference (A/CONF.95/3, annex II, appendix B), as subparagraph (3) (b) of article 3.

- "(i) Without prejudice to the right to claim compensation;
- "(ii) Applicable to all minefields, mines and booby-traps remaining in position at the date this Convention enters into force, as well as to minefields, mine: and booby-traps placed in position thereafter."

Article 4. Restriction on the use of remotely delivered mines

15. For the understanding and application in practice of the present Article, it should be noted that the restrictions in article 2 bis apply fully to the use of remotely delivered mines to which article 4 specifically applies. Paragraph (2) appears in the form of wording based on article 57, subparagraph 2 (c) of Additional Protocol I to the 1949 Geneva Conventions, as applied to the delivery or dropping of remotely delivered mines. It should be noted that there was agreement in the Working Group that article 4 cannot be interpreted as detracting from the existing rules of international law applicable in armed conflict. A number of delegations expressed preference for greater protection of the civilian population than provided for in this article. One delegation expressed its preference for the following text of article 4: "The indiscriminate use of remotely delivered mines is prohibited."

Article 6. Prohibitions on the use of certain booby-traps

16. Paragraph (1) of this article deals with specifically treacherous or perfidious booby-traps. Subparagraph (1) (a) includes booby-traps that are otherwise sometimes known as "prefabricated" booby-traps and that could be mass-produced. In relation to subparagraph (1) (b), one delegation proposed to prohibit the use of booby-traps that are in any way attached to or associated with letters or other mail parcels. In the course of the discussion in the Working Group it was recognized that the use referred to was fully covered by the prohibitions contained in subparagraph (3) (b) of article 2 bis and in subparagraph (1) (a) of article 6. Another delegation introduced the proposal in relation to the protection of children contained in part B of attachment 2 to this report. Subparagraph (1) (b) (v) of the article is based on subparagraph (2) (b) of that proposal. As to subparagraph (2) (a) of the proposal, it was the understanding in the Working Group that the concern expressed therein was sufficiently covered by rules of international law in force. The delegation that had introduced the proposal expressed the hope that the Conference would succeed in finding wording to cover the concern expressed in that paragraph, which would be incorporated in the draft Protocol at a later stage of the Conference. The Working Group subscribed to that view.

17. Paragraph (2) of the article recalls paragraph (2) of article 35 of Additional Protocol I to the Geneva Conventions of 1949. Particular attention is required for the adequate translation of this paragraph into all languages, which should be identical to the respective versions of the said article of the Additional Protocol.

ATTACHMENT 1*

DRAFT PROTOCOL ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF MINES,
BOOBY-TRAPS AND OTHER DEVICES

Approved by the Working Group on Landmines and Booby-Traps

The text of the draft Protocol, as approved by the Working Group and originally attached to its report to the Committee of the Whole (A/CONF.95/CW/1), is identical to that approved by that Committee and appearing in appendix A to its report (see above), except that:

1. Paragraph (3) of article 3 of the draft read as follows:

"(3) All such records shall be retained by the parties, who shall:

"(a) As soon as possible after the cessation of active hostilities make available to each adverse party and to the Secretary-General of the United Nations all information in their possession concerning the location of minefields, mines and booby-traps in the territory of such adverse party other than territory under the occupation or control of their own forces or allied forces; and

"(b) As soon as possible, whenever after the cessation of active hostilities their own forces or allied forces withdraw from the whole, or any part, of the territory of any adverse party which those forces had occupied or controlled, make available, to such adverse party and to the Secretary-General of the United Nations, all information in their possession concerning the location of minefields, mines and booby-traps in the area from which those forces had withdrawn; and

"(c) Whenever it is possible to do so, having regard to their legitimate defence interests, /make public after the cessation of active hostilities/ /and in any case when the cessation of hostilities becomes effective and permanent, make public/ information concerning the location of minefields, mines and booby-traps in any parts of their own territory occupied or controlled by the forces of an adverse party; and

"(d) When United Nations forces or missions perform functions in any area or areas, make available to the authority mentioned in article 3 bis such information as is required by that Article."

2. No foot-note appeared to article 4.

* Originally A/CONF.95/CW/1.

ATTACHMENT 2

PROPOSALS SUBMITTED BY MOROCCO

Part A. Annex to the Protocol*

The recording of the location of minefields, mines, booby-traps and other delayed-action devices shall be effected in the following manner:

- (1) With regard to pre-planned manually-emplaced minefields and booby-traps:
 - (a) Maps and diagrams should be drawn in such a way as to indicate precisely the extent of the minefield and the location, nature, number and disposition of the mines and booby-traps laid;
 - (b) The mines and booby-traps laid should be described briefly with emphasis on the methods and means to be used for their neutralization or rapid destruction;
- (2) With regard to remotely-delivered minefields, mines and booby-traps:
 - (a) The topographic or aerial data of the firing or dropping positions and the co-ordinates of the estimated points of fall should be specified;
 - (b) The nature of the mined ground and the atmospheric conditions prevailing at the time of delivery (wind speed and direction, etc.) should be indicated;
- (3) With regard to other minefields, mines, booby-traps and other devices laid or placed in position:

All relevant information, however, brief, should be provided so as to enable the nature and type of the mines, booby-traps or other devices used to be determined and the locations or areas in which they were laid to be identified.

Part B. Increased protection for children against certain effects of conventional weapons**

1. On account of their age, children must have increased protection against certain effects of conventional weapons.
2. It is accordingly prohibited in any circumstances to use:

* Originally A/CONF.95/CW/WG.1/L.5.

** Originally A/CONF.95/CW/WG.1/L.2.

- (a) Methods or means of war which are aimed directly at children or whose operation or application takes advantage of their lack of understanding;
- (b) Mines, booby-traps and other delayed-action devices which are in any way attached to or connected or associated with, objects or products that are necessary, or are habitually used, for the purpose of the feeding, health, hygiene, clothing, comfort, education, religious observances and recreational activities of children;
- (c) Mines, booby-traps and other delayed-action devices not fitted with a neutralizing mechanism.

ATTACHMENT 3

STATEMENT MADE BY THE EXECUTIVE SECRETARY ON BEHALF OF THE
SECRETARY-GENERAL OF THE UNITED NATIONS IN CONNEXION WITH
SUBPARAGRAPHS 3 (A) and (B) OF ARTICLE 3 OF THE DRAFT
PROTOCOL

The Secretary-General of the United Nations has noted that under paragraphs (3)(a) and (b) of article 3 of the proposed Protocol on Prohibitions or Restrictions of the Use of Mines, Booby-Traps and Other Devices, a/ he, as well as the adverse party to a conflict, would receive information in the possession of any party to the conflict relating to the location of minefields, mines or booby-traps within the territory of such adverse party or within an area from which the notifying party has withdrawn its forces. The paragraphs in question do not, however, indicate what, if any, use the Secretary-General is required or allowed to make of such information.

To avoid any misunderstanding on this point, particularly at the stage when these provisions are implemented in respect to a particular conflict, the Secretary-General would now like to indicate that he considers that whenever information is provided to him pursuant to the cited provisions of the proposed Protocol, he would be free to use such information as he deems fit. He would naturally exercise this right at his discretion in the interest of the restoration and maintenance of peaceful conditions, as well as the facilitation of the functioning of any United Nations or other humanitarian missions or operations.

a/ Annex I, appendix B, attachment 1, which is, in this respect, substantially identical to annex I, appendix A.

APPENDIX C*

REPORT OF THE WORKING GROUP ON INCENDIARY WEAPONS

1. The Working Group held 10 formal meetings under the chairmanship of Lt.-Col. R. Felber (German Democratic Republic), with Miss Aida L. Lavin serving as Secretary. In addition to these formal meetings, different groups were established for informal consultations. Most of the drafting was done in these informal consultations.
2. The Working Group had before it the relevant annexes of the report of the Preparatory Conference (A/CONF.95/3, annex I, parts A, D, K, L, N, O, and annex III). In addition, a new proposal was submitted by the delegation of Argentina (A/CONF.95/CW/WG.2/L.1) and in the course of formal and informal meetings various suggestions were put forward.
3. The Chairman of the Working Group tabled a proposal on elements of an agreement on incendiary weapons as a basis for the task of elaborating a text on prohibitions or restrictions of the use of incendiary weapons (A/CONF.95/CW/WG.2/CRP.1 and Corr.1).
4. The results of the deliberations of the Working Group are set out in attachment 1 hereto in the form of a "Draft protocol on prohibitions or restrictions of the use of incendiary weapons". Because of the complex and controversial nature of the substantive questions involved, some areas of disagreement could not be solved. These are reflected in those parts of the above-mentioned document enclosed within square brackets.
5. With the exception of subparagraph 3(b), agreement was reached on the definitions in paragraphs 1 to 3. The brackets in subparagraph (b) reflect the position of two delegations that continued to be in favour of eliminating this exception.
6. No agreement could be reached on the definition of "flame weapon". For this reason three alternatives are included in paragraph 4 of the draft Protocol. While the third alternative represents an amended version of that contained in document A/CONF.95/CW/WG.2/L.1, the second alternative is an attempt to give an illustrative picture of that category of incendiary weapons. During the discussions, the trend of opinion was that the most practicable definition would be one of a very general and broad character.
7. Some delegations expressed the opinion that the category "flame weapon" should be eliminated on the grounds that the scope of this category was not clear and that such weapons were already encompassed in the definition contained in paragraph 1 of the draft Protocol. This current of opinion is also reflected in the bracketed part of paragraph 10 of the draft Protocol.

* Originally A/CONF.95/CW/2/Add.1.

8. Several delegations were of the opinion that no additional agreement was required regarding incendiaries and flame weapons beyond the provisions on means and methods of warfare contained in Additional Protocol I to the 1949 Geneva Conventions.
9. Agreement was reached on the definitions in paragraphs 5 to 8. The definition of "concentration of civilians" (para. 5) is intended to convey a word-picture to the military commander regarding the protected character of the civilian population, rather than to present a precise mathematical formulation of what is a "concentration" of civilians. The commander's attention is directed by the definition to the concern he must have for the presence or absence of the civilian population, which is fluid in wartime, rather than to the character or size of the city, town or village. It is understood that "civilians" means those persons who are not taking a direct part in the hostilities.
10. One delegation stated that although not objecting to the consensus as regards the definition of "military objective" (para. 6), it reserved its position on this definition. This delegation was of the opinion that the definition overlooked two important elements. In a state of war, military advantage does not derive only from a selected number of objectives; national power as a whole is also involved in the conflict. Furthermore, the ultimate purpose of destruction, capture or neutralization is not exhausted in the mere gaining of military advantage. In the view of this delegation the final goal was that of bringing the state of war to an end. This delegation felt that the concept of military objective and that of national power as a whole, as well as, the ultimate purpose of military action, were closely interconnected elements and should have had their place in the definition concerned, also taking into account humanitarian considerations.
11. Taking into account the recommendation contained in the Report of the Drafting Group on Incendiary Weapons of the Preparatory Conference (A/CONF.95/3, annex III) and some oral proposals, a definition of "civilian objects" was included in the draft Protocol (para. 7), which corresponded to the definition contained in article 52 (1) of Additional Protocol I to the 1949 Geneva Conventions.
12. No agreement could be reached on the complete prohibition of the use of incendiary weapons. Some delegations held the view that as a first step in this direction, a complete prohibition of the use of napalm should be agreed upon. However, no agreement was possible on such a prohibition. Thus, paragraphs 9 to 11 reflect two approaches, the first providing for an absolute prohibition of the use of incendiary weapons and the second extending the existing protection of the civilian population. The second alternative of paragraph 9 reaffirms existing international law applicable in armed conflicts with a view to increasing the protection of civilians and civilian objects against the effects of incendiary weapons. Paragraph 10 represents a restriction of the use of air-delivered flame weapons against military objectives located within a concentration of civilians which is also intended to increase the protection of civilians. Another alternative set out in paragraph 10 would prohibit air-delivered incendiary weapons. One delegation argued that a rule containing restrictions only related to attack with air-delivered flame weapons had to be

strengthened by the inclusion of a general provision in the Protocol. The proposed text contained an in dubio rule with the aim of giving better protection to civilians. Other delegations objected to this rule mainly because of perceived impracticalities in the application of such a rule. Paragraph 11 is intended to afford greater protection to civilians if a military objective located within a concentration of civilians is made the object of attack by means of incendiary weapons. Implicitly, this rule would prohibit the indiscriminate use of incendiary weapons, in conformity with article 51 of Additional Protocol I to the Geneva Conventions of 1949.

13. No agreement could be reached with respect to the protection of combatants. The discussion on this subject could not be finished because of the limited time available to the Working Group. For this reason paragraph 12 in its two versions merely reproduces some of the elements that had been proposed by the Chairman (see para. 3 above), and does not reflect any drafting by the Working Group. It reflects the various approaches to this question. It must be emphasized that the proponents of the second alternative are ready to improve the text. During the discussions several delegations made oral proposals, which appear in attachment 2 to this report. However, not all of these proposals were discussed in the Working Group. It must also be stressed that several delegations drew attention to the fact that a rule intended to protect combatants must be applicable in all situations of armed conflict. In this connexion one delegation made reference to the Report of the Mixed Group of the Diplomatic Conference (document CDDH/1/II/266 or CDDH/III/255) in which special military terms are recommended. Using these terms would avoid difficulties in further deliberations on this subject.

ATTACHMENT 1*

DRAFT PROTOCOL ON PROHIBITIONS OR RESTRICTIONS
ON THE USE OF INCENDIARY WEAPONS

Submitted by the Working Group on Incendiary Weapons

DEFINITIONS

For the purpose of this Protocol:

1. "Incendiary weapon" means any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat, or a combination thereof, produced by a chemical reaction of a substance delivered on the target.
2. Incendiary weapons can take the form of, for example, flame throwers, fougasses, shells, rockets, grenades, mines, bombs and other containers of incendiary substances.
3. Incendiary weapons do not include:
 - (a) Munitions which may have incidental incendiary effects, such as illuminants, tracers, smoke or signalling systems;
 - /(b) Munitions which rely for their principal effect upon fragmentation, penetration or blast and which have secondarily an incendiary effect./
4. /"Flame weapon" is any incendiary munition designed primarily to produce flame effects similar to those of napalm./

or

/"Flame weapon" if any incendiary munition in which the incendiary substance is based on a gelled liquid hydrocarbon, such as napalm, /or an ungelled /liquid/ hydrocarbon/ or any other substances designed primarily to produce /similar/ flame effects /to those produced by napalm/./

or

/"Flame weapon" means any incendiary munition specifically designed to produce incendiary effects by means of the delivery on the target of flame-producing agents such as gelled and ungelled hydrocarbons and organometallic substances, their compounds and derivatives and other substances having similar effects. Napalm is a flame weapon./

* Originally A/CONF.95/CW/2.

5. "Concentration of civilians" means any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.
6. "Military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization in the circumstances ruling at the time, offers a definite military advantage.
7. "Civilian objects" are all objects which are not military objectives as defined in paragraph 6.
8. "Feasible precautions" are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations.

RULES

/General protection

9. It is prohibited to use incendiary weapons. /

/Protection of civilians and civilian objects

9. It is prohibited in any circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by incendiary weapons.
10. It is prohibited in any circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered /flame/ /incendiary/ weapons.

11. It is prohibited to make any military objective located within a concentration of civilians the object of attack by means of incendiary munitions, except when that military objective is clearly separated and distinct from the concentration of civilians and all feasible precautions are taken with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects. /

/Protection of combatants

12. It is prohibited to use incendiary weapons against combatants as such.

or

- (a) It is prohibited to use incendiary weapons against combatants except when they:

/...

- (i) are engaged in a combat situation where close air support is necessary;
 - (ii) are in, or in the vicinity of, a military objective such as armoured vehicles, field fortifications, bunkers, pill-boxes or other similar objectives.
- (b) This provision is without prejudice to the protection given to non-combatant members of armed forces by the rules of international law applicable in armed conflicts.]

ATTACHMENT 2

PROPOSALS REGARDING THE PROTECTION OF COMBATANTS

Part A. By the Union of Soviet Socialist Republics

12. It is prohibited to use incendiary weapons against combatants as such except when they are removed less than 50 to 80 kms from the enemy lines.

Part B. By Indonesia

12. It is prohibited to use incendiary weapons against combatants except when they:

- (a) are in or in the vicinity of armoured vehicles;
- (b) are in field fortifications such as bunkers and pill-boxes and in caves.

Part C. By Nigeria

12. It is prohibited to use incendiary weapons against combatants except when in defended localities.

(a) Defended locality includes:

- (i) a fortification or fortified locality;
- (ii) a town which is defended by detached posts which together with it form an indivisible whole, although the posts are at a distance from the town; and
- (iii) a locality that is occupied by armed forces or when armed forces are crossing it (however the occupation of a locality by a medical armed unit only does not convert the place into a defended locality).

(b) The killing and destruction must be proportionate to the military advantage sought.

Part D. By Jordan

12. It is prohibited to use incendiary weapons against combatants as such. However, incendiary weapons may be used against military objectives.

APPENDIX D

ADDITIONAL PROPOSALS CONCERNING INCENDIARY WEAPONS

Part 1. Draft Protocol on Incendiary Weapons

Submitted by Austria, Egypt, Ghana, Jamaica, Mexico, Romania,
Sweden, Switzerland, Venezuela, Yugoslavia and Zaire*

DEFINITIONS

For the purpose of this Protocol:

1. "Incendiary weapon" means any weapon or munition which is primarily designed to set fire to objects or to cause injury to persons through the action of flame, heat, or a combination thereof, produced by a chemical reaction of a substance delivered on the target.
2. Incendiary weapons can take the form of, for example, flame throwers, fougasses, shells, rockets, grenades, mines, bombs and other containers of incendiary substances.
3. Incendiary weapons do not include:
 - (a) munitions which may have incidental effects, such as illuminants, tracers, smoke or signalling systems;
 - (b) munitions which rely for their effect upon fragmentation, penetration or blast and which have secondarily an incendiary effect.
4. "Concentration of civilians" means a concentration of civilians, be it permanent or temporary, such as in cities, towns and villages or as in camps or columns of refugees or evacuees.
5. "Military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization in the circumstances ruling at the time, offers a definite military advantage.
6. "Civilian objects" means all objects which are not military objectives.

RULES

Protection of civilians and civilian objects

7. It is prohibited in any circumstances to use incendiary weapons against the civilian population as such, individual civilians or civilian objects.

* Originally A/CONF.95/CW/L.1 and Add.1.

8. It is prohibited in any circumstances to use incendiary weapons against any military objective located within a concentration of civilians.

Protection of combatants

9. It is prohibited to use incendiary weapons against combatants except when they are in, or in the vicinity of, armoured vehicles, field fortifications or other similar objectives.

Part 2. Draft Protocol on Prohibitions or Restrictions
on the Use of Incendiary Weapons

Submitted by Australia and the Netherlands**

• DEFINITIONS

For the purpose of this Protocol:

1. "Incendiary weapon" means any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat, or a combination thereof, produced by a chemical reaction of a substance delivered on the target.

2. Incendiary weapons can take the form of, for example, flame throwers, fougasses, shells, rockets, grenades, mines, bombs and other containers of incendiary substances.

3. Incendiary weapons do not include:

(a) munitions which may have incidental incendiary effects, such as illuminants tracers, smoke or signalling systems;

(b) munitions which rely for their principal effect upon fragmentation, penetration or blast and which have secondarily an incendiary effect.

4. "Flame weapon" is any incendiary munition in which the incendiary substance is based on a gelled liquid hydrocarbon, such as napalm, or an ungelled liquid hydrocarbon or any other substance designed primarily to produce similar flame effects to those produced by napalm.

5. "Concentration of civilians" means any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.

6. "Military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military

** Originally A/CONF.95/CW/L.3.

action and whose total or partial destruction, capture or neutralization in the circumstances ruling at the time, offers a definite military advantage.

7. "Civilian objects" are all objects which are not military objectives as defined in paragraph 6.

8. "Feasible precautions" are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations.

RULES

Protection of civilians and civilian objects

9. It is prohibited in any circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by incendiary weapons.

10. It is prohibited in any circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered flame weapons.

11. It is prohibited to make any military objective located within a concentration of civilians the object of attack by means of incendiary munitions, except when that military objective is clearly separated and distinct from the concentration of civilians and all feasible precautions are taken with a view to limiting the incendiary effects to the military objective, and to avoiding, and in any event to minimizing incidental loss of civilian life, injury to civilians and damage to civilian objects.

ANNEX II*

REPORT OF THE CONFERENCE WORKING GROUP ON A GENERAL TREATY

1. At its 1st plenary meeting, on 10 September 1979, the Conference decided to establish a Conference Working Group on the General Treaty and entrusted it with the preparation of the text of a Convention to which an optional protocol or clauses embodying prohibitions or restrictions of use of certain conventional weapons deemed to be excessively injurious or to have indiscriminate effects would be attached.
2. At its 3rd plenary meeting, on 11 September, the Conference appointed Ambassador Antonio de Icaza of Mexico as Chairman of the Conference Working Group. Mr. P. Davinic served as Secretary of the Working Group.
3. The Conference Working Group held nine formal meetings during the period from 13 to 27 September. The Working Group had before it a number of proposals pertaining to the Convention or specific provisions thereof. The proposals were contained in the following documents:
 - A/CONF.95/3, annex I, part H, submitted by Mexico, and A/CONF.95/WG/L.1 submitted by the Netherlands and the United Kingdom dealt with an outline of a draft general convention;
 - A/CONF.95/WG/L.2 submitted by Nigeria, A/CONF.95/WG/L.4 and Add.1 submitted by Hungary and the Ukrainian SSR, A/CONF.95/WG/L.5 submitted by the German Democratic Republic, A/CONF.95/WG/L.7 submitted by Morocco and A/CONF.95/WG/L.8 submitted by China dealt with draft preambular paragraphs;
 - A/CONF.95/WG/L.3 submitted by Austria, Canada, Denmark, Finland, Ireland, Sweden and Switzerland and A/CONF.95/WG/L.10 submitted by Canada, Denmark, Ireland, Netherlands, Sweden, the United Kingdom and the United States of America dealt with a review mechanism;
 - A/CONF.95/WG/L.6 submitted by Mongolia dealt with entry into force; and
 - A/CONF.95/WG/L.9 submitted by the Netherlands dealt with the application of the rules set out in the protocol(s) pending the entry into force of the Convention.
4. The Conference Working Group also had before it a number of conference room papers containing various formulations of the different provisions of the general treaty emerging from informal consultations among many delegations which were not attributed to any one of them (A/CONF.95/WG/CRP.1, 2, 2/Rev.1, 2/Rev.1/Add.1, 3 and 7). However, A/CONF.95/WG/CRP.4 and Corr.1 contained compilation of proposals submitted to the Conference on preambular paragraph(s), while A/CONF.95/WG/CRP.5 and 6 submitted by Mexico and the Federal Republic of Germany respectively dealt with a draft article on relationship of the Convention with other international agreements.

* Originally A/CONF.95/WG/1, later assigned the number A/CONF.95/7.

5. From the 3rd formal meeting of the Conference Working Group, on 17 September, until the 8th meeting, on 26 September, consultations were conducted in an informal contact group on various provisions of the treaty and, in particular, on the question of the follow-up or the review mechanism. The purpose of these consultations was to enable the delegations to explain their positions in an informal manner and to try to establish a common basis upon which an agreement could be reached in the Working Group.

6. The contact group was open-ended and its meetings were attended both by the co-sponsors of various proposals and other interested delegations. In the course of these consultations there was a very broad and thorough exchange of views, which enabled the Group to identify the areas where the positions of delegations very much converged, as well as the areas where delegations held particular positions whose reconciliation would require further negotiations.

7. Concerning the question of the follow-up, there was a general agreement that the efforts to prohibit or restrict the use of certain conventional weapons should continue both as regards the widening of the scope of the agreements to be reached at this Conference by way of amending them and the adoption of new rules for other categories of specific weapons.

8. As to amendments, there was a general agreement that only States Parties may initiate such proposals and eventually adopt them at the conference to be convened for that purpose and there was also a measure of agreement that other States could also attend such a conference. In this regard, however, some delegations felt that it would be appropriate to provide for a certain lapse of time before amendments could be proposed while others felt that such a time-limit was not desirable since that would infringe upon the right of parties under general treaty law to propose amendments at any time. It was pointed out that the time lapse between the end of this Conference and the entry into force of the agreements would depend on the number of ratifications needed for entry into force and that if a large number of ratifications were required it was to be expected that no mechanism for the consideration of amendments could function in the immediate future. Concerning the convening of a conference to consider proposed amendments, different views were expressed as to the number of positive replies from the States Parties, ranging from one third to two thirds, which would enable the Depositary to do so. Although both issues remained open, there was a general feeling that a compromise could be reached without great many difficulties.

9. There was also a general agreement that, if after a period of time no conference had been held to consider proposals for amending the existing agreements, a conference should be convened automatically. Various views were expressed as to the modalities for convening this conference and its task but they were largely reconcilable.

10. As regards the adoption of new rules, different approaches were proposed. Some delegations considered that a procedure similar to that for convening a conference for the purpose of amending the agreements could be used in case of proposals for new rules. On the basis of this approach it was not necessary to draw a distinction between amendments and new rules. The other approach advocated that the Committee

on Disarmament should be entrusted with the task of negotiating the new rules in meetings opened according to the Committee's rules of procedure to all States expressing their desire to participate. The third proposal, which emerged in the course of these consultations, attempted to reconcile these two approaches. It recognized the role that the Committee on Disarmament could play in this regard but, at the same time, provided for an independent mechanism for convening a conference to consider new rules. This conference would take into account the consideration of the Committee on Disarmament, but its convening would not depend on prior agreement in that Committee. The participants in the consultations felt that, given sufficient time, the differences would be reconciled.

11. Some delegations felt that a conference could be convened in order to review the operation of the agreements and that such a conference might also examine the possibility of adopting new rules. Other delegations felt that the task of such a conference should be confined to the consideration of amendments and new rules only. Another delegation felt that amendments and new rules should be considered separately and, as appropriate, in separate conferences. Several delegations expressed the view that it was not practical to have any review conference which would consider only the operation of the agreements since it would not serve a particularly useful purpose. There was a general understanding, however, that the mandate of a conference would eventually be determined on the basis of how the pending problems referred to in the preceding paragraph would be solved.

12. The informal papers appended to this report in appendix B (parts 1-5) were put forward in the course of informal consultations with a view to reaching a compromise between various views on the question of amendments and new rules. The first three papers appeared at an early stage of informal consultations, while the other two were put forward later as an attempt to merge the earlier proposals.

13. A contact group consisting of sponsors of various proposals on preambular paragraphs was able, after a preliminary exchange of views, to produce a composite text of an outline for a preamble, which appears in document A/CONF.95/WG/CRP.7. Some of the paragraphs were left in brackets by the contact group and further consultations are required on the preamble in its entirety.

14. At the 8th meeting of the Conference Working Group, the Chairman informed it of the results of informal consultations. A group of delegations submitted a proposal (A/CONF.95/WG/L.10 and Add.1) for the article on amendments, which is attached as appendix C to this report.

15. The Conference Working Group, after having considered various proposals before it, decided at its 8th meeting to attach to its report a composite Outline of a Draft Convention with brackets around provisions or formulations that at this stage of the negotiations could not obtain general acceptance (appendix A).

16. Concerning article 1 of the draft Convention, several proposals on the scope of application were presented. A compromise text was arrived at, but no consensus could be reached as regards placing a full stop after the words "... in paragraph 4

of article 1 of Protocol I to the Conventions" and deleting the remaining part of the provision starting with the word "if ...". In this connexion the delegation of Israel stated that the proposed deletion was unacceptable to it and made it clear that it would oppose any attempt to reach consensus on that basis. The same delegation, however, did not object that the proposed text of article 1 with square brackets around the part proposed for deletion be included in the outline of a draft Convention, on the condition that its opposition would be fully reflected in this report.

17. Concerning article 5, on ratification, acceptance, approval and accession, one delegation, supported by a number of others, proposed that the protocol(s) envisaged in the present formulation of that article as optional should become an integral part of the Convention. It was generally agreed to resume further consideration of this proposal after it became somewhat clearer as to what prohibitions or restrictions of use would be covered by the protocols.

18. In connexion with the bracketed paragraph 6 of the same article 5, it was pointed out that the brackets would be removed or the whole paragraph deleted once a decision is taken with regard to the bracketed part of article 1, which covers the situation referred to in this paragraph.

19. During consideration of the report of the Conference Working Group, the delegation of Israel asked that the reference to article 1, paragraph 4 of the additional Protocols to the 1949 Geneva Conventions, should be put between brackets in article 1 of the appended Outline of a Draft Convention. Other delegations objected and pointed out that the debate on the subject had already been closed and that the Group was at that stage only considering the report on past negotiations. It was decided that the text of article 1 of the appended Outline would not be changed but that the demand of the delegation of Israel would be recorded in this report.

APPENDIX A

OUTLINE OF A DRAFT CONVENTION

The States Parties to this Convention,

Confirming their determination that in cases not covered by this Convention or by other international agreements, the civilian population and the combatants shall at all times remain under the protection and authority of the principles of international law derived from established custom from the principles of humanity and from the dictates of public conscience,

Recalling the general principle of the protection of the civilian population against the effects of hostilities,

Basing themselves on the principle of international law that the right of the parties to an armed conflict to choose the methods or means of warfare is not unlimited, and on the principle that prohibits the use in armed conflicts of weapons, munitions or materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering,

Further recalling that it is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment,

Recalling that every State had the duty in accordance with the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, as well or in any other manner inconsistent with the purposes of the United Nations,

/Recognizing the right of all States to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations, and the right of colonial and dependent peoples to fight for their national liberation, /

Reaffirming the need to continue the codifications and progressive development of the rules of international law applicable to armed conflict,

Desiring to contribute to international détente, the ending of the arms race and the building of confidence among States, and hence, to the realization of the aspiration of all peoples to live in peace,

/Expressing their conviction that nothing in this Convention and in the attached Protocols can be construed as legitimizing or authorizing any act of aggression /, colonial domination, racial oppression/ or any other use of force inconsistent with the Charter of the United Nations,

Reaffirming further that the provisions of this Convention and the attached Protocols must be fully applied in all circumstances without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the Parties to the conflict, /

/Believing it important that all States and, above all, major military Powers should participate in the Convention, /

/Emphasizing that the two States with the largest conventional arsenals have a special responsibility in the prohibitions or restrictions of use of specific conventional weapons, /

Recognizing the importance of pursuing every effort which may contribute to progress towards general and complete disarmament under strict and effective international control,

Wishing to prohibit or restrict further the use of certain conventional weapons and believing that the positive results achieved in this area may facilitate the main talks on disarmament with a view to putting an end to the production, stockpiling and proliferation of such types of conventional weapons,

/Bearing in mind that the Committee on Disarmament /, being as it is the only multilateral negotiating organ in the field of disarmament, / can examine the question of adopting further measures to prohibit or restrict the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects with a view to a possible broadening of the scope of the prohibition contained in this Agreement, /

/Convinced that prohibitions or restrictions of use of certain conventional weapons which cause superfluous injuries or have indiscriminate effects should be supplemented by provisions restricting the transfer of such weapons, /

Have agreed as follows:

Article 1

Scope of application

1. This Convention shall apply in the situations referred to in article 2 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, including any situation described in paragraph 4 of article 1 of Protocol I to the Conventions /if the Convention and the Protocol have been made applicable to that situation in accordance with article 96, paragraph 3 of the Protocol/.

Article 2

Relations with other international agreements

1. Nothing in this Convention shall be interpreted as detracting from other obligations imposed upon the Parties by international humanitarian law applicable in armed conflict.

2. In the event of the existence of regional or subregional agreements providing for prohibitions or restrictions of use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects, any State outside the region which may be directly involved in hostilities in that area shall observe such prohibitions or restrictions in its military operations there./

Article 3

Review and Amendments

(see paras. 12-14 of the report and appendices B and C below)

Article 4

Signature

This Convention shall be open for signature by all States at United Nations Headquarters in New York six months after the closing of the 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, for a period of 12 months. Any State which does not sign the Convention may accede to it.

Article 5

Ratification - acceptance - approval - accession

1. This Convention is subject to ratification, acceptance or approval by the Signatories.

2. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who shall be the Depositary for the Convention.

3. At the time of the deposit of its instrument of ratification, acceptance, approval or accession, each Party shall express its consent to be bound by one or more of the Protocols annexed to this Convention.

4. Any Party which wishes subsequently to become bound by any Protocol or Protocols by which it had not consented to be bound may do so at any later date by depositing its instrument of ratification, acceptance, approval or accession, as appropriate, with the Depositary.

5. Any Protocol to which a Party has consented to be bound shall for that Party form an integral part of this Convention.

6. The authority representing a people engaged against a Party in armed conflict of the type referred to in article ... and which has made a declaration in accordance with article 96, paragraph 3 of Protocol I may undertake to apply the Convention and its Protocols in relation to that conflict by means of a unilateral declaration addressed to the Depositary. Such declaration shall, upon its receipt by the Depositary, have in relation to that conflict the following effects:

(a) the Convention and its Protocols are brought into force for the said authority as a Party to the conflict with immediate effect;

(b) the said authority assumes the same rights and obligations as those which have been assumed by a Party to the Convention and its Protocols; and

(c) the Convention and its Protocols are equally binding upon all Parties to the conflict.

Article 6

Entry into force

1. This Convention, its annexed Protocols and any subsequent Protocols shall enter into force six months following the date of deposit 15/ 20/ 40/ instruments of ratification, acceptance, approval or accession 1, including the instruments of ratification, acceptance, or approval by the Governments of all the permanent members of the Security Council.

2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the entry into force of this Convention, the Convention, its annexed Protocols and any subsequent Protocols shall enter into force six months after the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 7

Provisional application

If, pending the entry into force of this Convention, a situation arises as contemplated in article 1, the Depositary shall immediately invite the Parties to the conflict to agree on the application of the rules set out in one or more of

the annexed Protocols. The agreement may be concluded either directly or through the Depositary, and may consist of reciprocal and concordant declarations./

Article 8

Denunciation

1. In case a State Party should denounce this Convention and its Protocols or any subsequent Protocol by which it has consented to be bound, the denunciation shall only take effect one year after receipt by the Depositary of the instrument of denunciation. If, however, on the expiry of that year the denouncing Party is engaged in one of the cases referred to in article 1, the denunciation shall not take effect before the end of the armed conflict or occupation and not, in any case, before the termination of operations connected with the final release, repatriation or re-establishment of the persons protected by the rules of international law applicable in armed conflict.
2. Such denunciation shall be notified in writing to the Depositary.
3. The denunciation shall have effect only in respect of the denouncing Party.
4. Any denunciation under paragraph 1 of this article shall not affect the obligations already incurred, by reason of the armed conflict, under this Convention by such denouncing Party in respect of any act committed before this denunciation becomes effective.

Article 9

Notifications by the Depositary

The Depositary shall inform all States which have signed this Convention or acceded to it of:

- (a) signatures affixed to this Convention and the deposit of instruments of ratification, acceptance, approval or accession under article 5;
- (b) the date of entry into force of this Convention under article 6;
- (c) denunciations under article 8, the date of receipt thereof and the date on which they take effect.

Article 10

Authentic texts

The original of this Convention with the annexed Protocols, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall transmit certified true copies thereof to all States which have signed this Convention or acceded to it.

/...

APPENDIX B

INFORMAL PAPERS ON AMENDMENTS AND ADDITIONAL RULES

Part 1. Submitted by Austria, Canada, Denmark, Finland, Ireland, Mexico, Netherlands, Norway, Sweden and Switzerland

Draft article

1. At any time after the entry into force of this Convention any State Party may propose amendments to the Convention or any annexed Protocol by which it is bound, as well as additional rules relating to other categories of conventional weapons not covered by the Protocols. Any proposal for an amendment or additional rules shall be communicated to the Depositary, who shall notify any such proposal to all the States Parties and shall seek their views on whether a conference should be convened to consider the proposal. If one third of the States Parties so agree, he shall promptly convene a conference to which all States shall be invited.

2. Such a conference may agree upon amendments to the Convention and the annexed Protocols or upon additional rules. Amendments and additional rules shall be adopted and shall enter into force in the same manner as this Convention, provided that:

(a) Amendments to the Convention may be adopted only by the States Parties;

(b) Amendments to a specific Protocol may be adopted only by States Parties which are bound by that Protocol; and

(c) Additional rules may be adopted by all States present at the Conference and may be added to this Convention.

3. If after a period of ... years after entry into force of this Convention, no conference has been convened in accordance with paragraph 1 of this article, the Depositary shall convene a conference to which all States shall be invited to examine the operation of the Convention and the Protocols and to consider the possibility of amending the Convention and the annexed Protocols or of adopting additional rules. Amendments or additional rules may be adopted in accordance with the provisions of paragraph 2 of this article.

Part 2. Submitted by France

a. Draft article

1. After this Convention has been in force for ... years, any State Party may at any time propose amendments to the Convention or to any annexed Protocols by which it is bound, as well as additional rules relating to other categories of conventional weapons not covered by the Protocols. Any proposal for an amendment or additional rule shall be communicated to the Depositary, who shall proceed as follows:

(a) He shall notify all States Parties of any proposal for an amendment and shall seek their views on whether a conference should be convened to examine the proposal. If ... States Parties so agree, he shall convene a conference to which all States Parties shall be invited.

This conference may agree upon amendments to the Convention and to the annexed Protocols. Such amendments shall be adopted and shall enter into force in the same manner as this Convention; amendments to a Protocol shall be adopted only by the States Parties thereto.

(b) He shall notify all States of any proposal for additional rules and shall seek their views on whether this proposal should be brought to negotiation. If ... States so agree, the Depositary shall take appropriate action for the prompt opening of negotiations, which shall be open to all States on that proposal.

Draft Protocols on additional rules resulting from such negotiations shall be adopted by all the States Parties to the negotiations. They shall enter into force in accordance with the provisions prescribed by this Convention, to which they may be added.

2. If after a period of ... years no conference has been convened pursuant to paragraph 1 of this article, the Depositary shall convene a conference of all States Parties to the Convention in order to consider whether the Convention and the annexed Protocols should be amended. Any amendments shall be adopted in accordance with the provisions of paragraph 1 (a) of this article.

b. Draft paragraphs for the report of the Conference

Due consideration has been given by the Conference to the question of a system of periodic review raised by paragraph 2 of resolution 32/152 of the United Nations General Assembly.

It has been established that such a system should concern, on the one hand, the Convention and Protocols adopted by the Conference and on the other hand additional rules on other weapons, which might be the subject of additional Protocols.

As regards the first aspect, the Conference has adopted the rules included in the following draft Convention (art. ...).

As regards the second aspect, the Conference has decided that the Depositary should take the appropriate measures for the opening of negotiations on additional Protocols if a proposal to this effect is supported by ... States (art. ... of the draft Convention).

The Conference recommends that, in such a case, the Depositary should transmit the proposal to the Committee on Disarmament with a view to negotiations, which should begin not later than ... months thereafter at a meeting of governmental

/...

experts; this meeting should be open, according to the Committee's rules of procedure, to all States expressing their intent to participate.

At the end of the negotiations the Committee on Disarmament would take note of the Agreement reached between all States Parties to the draft Protocol resulting from these negotiations. This Protocol should enter into force in the same manner as the Convention to which it could then be added.

Part 3. Submitted by Bulgaria, German
Democratic Republic and Poland

Draft article

1. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be convened by the Depositary in order to review the scope and the operation of this Treaty and the attached Protocols with a view to assuring that the purposes of the Treaty and the provisions of the Protocols are being realized.

This conference may also, taking due account of the consideration in the Committee on Disarmament of the questions relating to prohibition or restriction of use of certain conventional weapons, which may be deemed to be excessively injurious or to have indiscriminate effects, examine with the participation of the Member States of the United Nations and other States and parties invited to the Diplomatic Conference the possibilities of adopting new rules on the prohibition or restriction of use of specific conventional weapons.

2. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary, the convening of further conferences with the same objective of reviewing the operation of the Treaty and the attached Protocols.

3. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by two-thirds or more of the Parties to the Treaty, the Depositary shall convene a conference, to which he shall invite all the signatories to the Treaty, to consider such an amendment.

Any amendment to this Treaty and the attached Protocols shall be adopted and enter into force in the same manner as the Treaty and the Protocols referred to in article 4 were adopted and entered into force.

Part 4. Submitted by the Union of Soviet Socialist Republics

a. Draft article

1. At any time after the entry into force of this Convention any State Party may propose amendments to the Convention or an annexed Protocol by which it is bound. Any proposal for an amendment shall be communicated to the Depositary, who shall notify any such proposal to all the States Parties and shall seek their views on whether a conference should be convened to consider the proposal. If two-thirds of the States Parties so agree, he shall promptly convene a conference to which all States shall be invited.

2. Such a conference may agree upon amendments to the Convention and the annexed Protocols. Amendments shall be adopted and shall enter into force in the same manner as this Convention, provided that:

(a) Amendments to the Convention may be adopted only by the States Parties;

(b) Amendments to a specific Protocol may be adopted only by States Parties which are bound by that Protocol.

3. Five years after entry into force of this Convention the Depositary shall convene a conference to examine the operation of the Convention and the Protocols.

This conference may also, taking due account of the consideration in the Committee on Disarmament of the questions relating to prohibition or restriction of use of certain conventional weapons, which may be deemed to be excessively injurious or to have indiscriminate effects, examine, with the participation of the Member States of the United Nations and other States and Parties invited to the Diplomatic Conference, possibilities of adopting new rules on the prohibition or restriction of use of specific conventional weapons.

4. At intervals of five years thereafter, a majority of the Parties to the Convention may obtain, by submitting a proposal to this effect to the Depositary, the convening of a further conference with the same objective.

5. After this Convention has been in force for ... years, any State Party may at any time propose additional rules relating to other categories of conventional weapons not covered by the Protocols. Any proposal for an additional rule including possible recommendations in this respect by a Review Conference shall be communicated to the Depositary, who shall notify all States of any proposal for additional rules and shall seek their views on whether this proposal should be brought to negotiation. If ... States so agree, the Depositary shall take appropriate action for the prompt opening of negotiations, which shall be open to all States on that proposal.

Draft Protocols on additional rules resulting from such negotiations shall be adopted by all the States Parties to the negotiations. They shall enter into force in accordance with the provisions prescribed by this Convention, to which they may be added.

b. Draft paragraphs for the report of the Conference

The Conference has decided that the Depositary should take the appropriate measures for the opening of negotiations on additional Protocols if a proposal to this effect is supported by ... States (art. ... of the draft Convention).

The Conference recommends that, in such a case, the Depositary should request the United Nations General Assembly to transmit the proposal to the Committee on Disarmament with a view to negotiations, which should begin not later than ... months thereafter at a meeting of governmental experts; this meeting should be open, according to the Committee's rules of procedure, to all States expressing their intent to participate. The Protocol resulting from these negotiations should enter into force in the same manner as the Convention to which it could then be added.

Part 5. Submitted by the United Kingdom

a. Draft article

1. Any State Party may propose amendments to the Convention or any annexed Protocol by which it is bound, including additional rules relating to other categories of conventional weapons not covered by the Protocols. Any proposal for an amendment shall be communicated to the Depositary, who shall notify it to all the States Parties and shall seek their views on whether a conference should be convened to consider the proposal. If ... of the States Parties so agree, he shall promptly convene a conference to which all States shall be invited.

2. Such a conference may agree upon amendments, including additional rules, which shall be adopted and shall enter into force in the same manner as this Convention; provided that amendments to the Convention may be adopted only by the States Parties and that amendments to a specific Protocol may be adopted only by States Parties which are bound by that Protocol.

3. If after a period of ... years following the entry into force of this Convention, no conference has been convened in accordance with paragraph 1 of this article, any State Party may request the Depositary to convene a conference to which all States shall be invited to consider the possibility of amending the Convention and the annexed Protocols. The Conference may agree upon amendments including additional rules which shall be adopted in accordance with the provisions of paragraph 2 of this article.

4. Any conference convened in accordance with paragraph 3 of this article may consider whether provision should be made for the convening of a further conference at the request of any State Party if, after a similar period to that referred to in paragraph 3 of this article, no conference has been convened in accordance with paragraph 1 above.

b. Draft resolution for adoption by the Conference

The 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,

Welcoming the adoption at the Conference of the Convention on Prohibitions or Restrictions ... and the annexed Protocols concerning respectively mines, booby-traps and other devices; incendiary weapons; and non-detectable fragments,

Noting that the possibility exists under article ... of the Convention to adopt amendments to the Convention and the annexed Protocols, including additional rules relating to other categories of conventional weapons not covered by the Protocols,

Considering nevertheless that it might be desirable to consider any proposals for the adoption of additional rules even before the entry into force of the Convention or independently of the procedure under article ... of the Convention,

Believing that the Committee on Disarmament provides an appropriate forum for this purpose,

Recommends the General Assembly of the United Nations to invite the Committee on Disarmament:

(a) To inscribe on its agenda the question of "measures to prohibit or restrict the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects" with a view to its early consideration in the Committee in an appropriate manner, which might include the establishment of an Ad Hoc Working Group in which interested non-member States would be invited to participate; and

(b) To make available any recommendations and suggestions resulting from the consideration provided for in paragraph (a) above with a view to their examination at a conference operating on the same basis as a conference convened in accordance with article ..., paragraph 1, of the Convention.

APPENDIX C

PROPOSAL FOR A DRAFT ARTICLE ON AMENDMENTS

Submitted by Australia, Canada, Denmark, the Federal Republic
of Germany, Ireland, the Netherlands, Norway, Spain, the Sudan,
Sweden, the United Kingdom and the United States

Article ...

1. Any State Party may propose amendments to the Convention or any annexed Protocol by which it is bound, including additional rules relating to other categories of conventional weapons not covered by the Protocols. Any proposal for an amendment shall be communicated to the Depositary, who shall notify it to all the States Parties and shall seek their views on whether a conference should be convened to consider the proposal. If ... of the States Parties so agree, he shall promptly convene a conference to which all States shall be invited.
2. Such a conference may agree upon amendments, including additional rules, which shall be adopted and shall enter into force in the same manner as this Convention, provided that amendments to the Convention may be adopted only by the States Parties and that amendments to a specific Protocol may be adopted only by States Parties which are bound by that Protocol.
3. If after a period of ... years following the entry into force of this Convention, no conference has been convened in accordance with paragraph 1 of this article, any State Party may request the Depositary to convene a conference to which all States shall be invited to consider the possibility of amending the Convention and the annexed Protocols. The conference may agree upon amendments including additional rules which shall be adopted in accordance with the provisions of paragraph 2 of this article.
4. Any conference convened in accordance with paragraph 3 of this article may consider whether provision should be made for the convening of a further conference at the request of any State Party if, after a similar period to that referred to in paragraph 3 of this article, no conference has been convened in accordance with paragraph 1 above.

* Originally A/CONF.95/WG/L.10 and Add.1.

ANNEX III

RESOLUTION ON SMALL-CALIBRE WEAPON SYSTEMS

Adopted by the Conference at its 7th plenary meeting, 23 September 1979

The United Nations Conference on Prohibitions or Restrictions of Use of Certain Conventional Weapons,

Recalling United Nations General Assembly resolution 32/152 of 19 December 1977,

Aware of the continuous development of small-calibre weapon systems (i.e., arms and projectiles),

Anxious to prevent an unnecessary increase of the injurious effects of such weapon systems,

Recalling the agreement embodied in The Hague Declaration of 29 July 1899, to abstain, in international armed conflict, from the use of bullets which expand or flatten easily in the human body,

Convinced that it is desirable to establish accurately the wounding effects of current and new generations of small-calibre weapon systems including the various parameters that affect the energy transfer and the wounding mechanism of such systems,

1. Takes note with appreciation of the intensive research carried out nationally and internationally in the area of wound ballistics, in particular relating to small-calibre weapon systems, as documented during the Conference;

2. Considers that this research and the international discussion on the subject has led to an increased understanding of the wounding effects of small-calibre weapon systems and of the parameters involved;

3. Believes that such research, including testing of small-calibre weapon systems, should be continued with a view to developing standardized assessment methodology relative to ballistic parameters and medical effects of such systems;

4. Invites Governments to carry out further research, jointly or individually, on the wounding effects of small-calibre weapon systems and to communicate, where possible, their findings and conclusions;

5. 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;

6. Appeals to all Governments to exercise the utmost care in the development of small-calibre weapon systems, so as to avoid an unnecessary escalation of the injurious effects of such systems.