

Fourth session
Geneva, 9-20 January 1995

FINAL REPORT OF THE GROUP OF GOVERNMENTAL EXPERTS TO
PREPARE THE REVIEW CONFERENCE OF THE STATES PARTIES TO
THE CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE
OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE
EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS

1. The Group of Governmental Experts to Prepare the Review Conference of the States parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, held its fourth session at the Palais des Nations, Geneva, from 9 to 20 January 1995, in accordance with the decision taken at its third session. The Group held 16 plenary meetings during that period under the Chairmanship of Ambassador Johan Molander of Sweden. Mr. C. Narain of India and Mr. Peter Poptchev of Bulgaria continued to serve as Vice-Chairmen of the Group. Mr. Sohrab Kheradi, Deputy Director of the Centre for Disarmament Affairs, Department of Political Affairs, continued to serve as Secretary of the Group.

2. At the fourth session of the Group of Governmental Experts, the following States parties to the Convention participated in the work of the Group: Australia, Austria, Bulgaria, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, India, Japan, Latvia, Mexico, the Netherlands, New Zealand, Norway, Pakistan, Poland, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland and Ukraine. The following States non-parties to the Convention also participated in the work of the Group as observers: Afghanistan, Algeria, Angola, Argentina, Belgium, Brazil, Cambodia, Chile, Colombia, Ethiopia, Iran (Islamic Republic of), Ireland, Israel, Italy, Kenya, Kuwait, Nicaragua, Peru, Portugal, the Republic of Korea, Romania, South Africa, The Syrian Arab Republic, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The International Committee of the Red Cross took part in the work of the Group, pursuant to the invitation issued by the Secretary-General of the United Nations, the Depositary of the Convention. The United Nations Department of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees and the United Nations Children's Fund also took part in the work of the Group as observers.

3. The Group continued to concentrate its efforts on agenda item 10 entitled "Consideration of proposals for and preparation of amendments to Protocol II of the Convention and the adoption of the report of the Group of Experts for submission to the States parties". At the same time, the Group also decided to keep open agenda item 9 entitled "General exchange of views", so that the substantive consideration of the issues before the Group could benefit from such an exchange of views. In this connection, a large number of delegations participated in the exchange of views.

4. In the course of its consideration of agenda item 10 regarding amendments to Protocol II to the Convention, the Group had before it the following documents:

- (1) CCW/CONF.I/GE/3 - "Draft amended protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices (Protocol II)" submitted by France;

- (2) CCW/CONF.I/GE/5 - "Summary of negotiations leading to the conclusion of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and of subsequent developments related to the Convention" prepared by the Secretariat;
- (3) CCW/CONF.I/GE/6 - "The rationale for amending and the ways and means of improving Protocol II of the Convention as well as the military and humanitarian perspectives concerning the amendment of Protocol II of the Convention" prepared by the International Committee of the Red Cross;
- (4) CCW/CONF.I/GE/7 - Communication received from the Republic of Argentina on a Moratorium;
- (5) CCW/CONF.I/GE/10 - Proposal by Sweden on Article 6;
- (6) CCW/CONF.I/GE/13 - A speech by the Deputy Minister of Defence of South Africa;
- (7) CCW/CONF.I/GE/18 - "Commission of States parties" proposed by the Russian Federation;
- (8) CCW/CONF.I/GE/19 - Official communication received from Israel;
- (9) CCW/CONF.I/GE/20 - "Prohibitions and restrictions" proposed by the Russian Federation;
- (10) CCW/CONF.I/GE/CRP.2 - "Chairman's Rolling Text" prepared by the Chairman;
- (11) CCW/CONF.I/GE/CRP.2/Rev.1 - "Chairman's Rolling Text" prepared by the Chairman;
- (12) CCW/CONF.I/GE/CRP.5 - "Non-paper on the scope of application" submitted by Germany;
- (13) CCW/CONF.I/GE/CRP.6 - "Non-paper on definitions" submitted by Germany;
- (14) CCW/CONF.I/GE/CRP.7 - "The question of mines in the Review Conference of the Conventional Weapons Convention: discussion paper" submitted by the Netherlands;
- (15) CCW/CONF.I/GE/CRP.8 - "Non-paper on the structure of clusters 3 (restrictions and prohibitions) and 4 (verification)" submitted by Germany;
- (16) CCW/CONF.I/GE/CRP.9 - "Non-paper on cluster 3 (prohibitions and restrictions)" submitted by Germany;
- (17) CCW/CONF.I/GE/CRP.10 - "Article 4 - Specific restrictions on the use of mines, booby-traps and other devices" submitted by Denmark and the United States;
- (18) CCW/CONF.I/GE/CRP.10/Rev.1 - "Article 4 - Specific restrictions on the use of mines, [booby-traps] and other devices" submitted by Denmark and the United States;
- (19) CCW/CONF.I/GE/CRP.11 - "Protocol II - New Article - Transfers" submitted by Australia;
- (20) CCW/CONF.I/GE/CRP.11/Rev.1 - "Protocol II - New Article - Transfers" submitted by Australia, the Netherlands and Sweden;
- (21) CCW/CONF.I/GE/CRP.12 - "Main Convention - New Article - Grave Breaches" submitted by Australia and Sweden;

- (22) CCW/CONF.I/GE/CRP.13 - "Main Convention - New Article - Implementation Procedures; Protocol II - New Article - Verification Commission" proposed by Australia;
- (23) CCW/CONF.I/GE/CRP.14 - "Working Paper" presented by Bulgaria;
- (24) CCW/CONF.I/GE/CRP.17 - "Non-paper on the Technical Annex to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices (Protocol II)" submitted by Germany;
- (25) CCW/CONF.I/GE/CRP.18 - "Article 8" proposed by Austria;
- (26) CCW/CONF.I/GE/CRP.19 - "Article 3" submitted by Mexico;
- (27) CCW/CONF.I/GE/CRP.20 - "Protocol II - New Article - Reports" submitted by Australia;
- (28) CCW/CONF.I/GE/CRP.21 - "Discussion paper - Scope" submitted by Australia on behalf of a Contact Group;
- (29) CCW/CONF.I/GE/CRP.22 - "Non-paper on definitions" submitted by India on behalf of the Consultation Group of Experts;
- (30) CCW/CONF.I/GE/CRP.23 - "Discussion paper on booby-traps and other devices" submitted by Australia;
- (31) CCW/CONF.I/GE/CRP.24 - "Proposals on prohibitions and restrictions" submitted by the International Committee of the Red Cross;
- (32) CCW/CONF.I/GE/CRP.25 - "Verification and Compliance" proposed by France and Germany;
- (33) CCW/CONF.I/GE/CRP.26 - "Technical Annex to Protocol II" Working paper submitted by France;
- (34) CCW/CONF.I/GE/CRP.27 - "Verification and Compliance" proposed by Finland;
- (35) CCW/CONF.I/GE/CRP.29 - "Protocol on anti-personnel landmines" proposed by Estonia;
- (36) CCW/CONF.I/GE/CRP.31 - "New Article 9 A - Provisioning of Technical Assistance to the States parties" - proposed by Pakistan, co-sponsored by China, Cuba and Iran (Islamic Republic of);
- (37) CCW/CONF.I/GE/CRP.32 and Corr.1 (English only) - "Verification and Compliance" joint proposal by China, Cuba, Iran (Islamic Republic of) and Pakistan;
- (38) CCW/CONF.I/GE/CRP.33 - "Proposal on Article 9 - Technological cooperation and assistance" submitted by Cuba, Iran (Islamic Republic of) and Pakistan;
- (39) CCW/CONF.I/GE/CRP.34 - "Article 8 - Protection of forces, missions, agencies and other bodies under the authority of the United Nations, of regional arrangements (agencies) acting under Chapter VIII of the United Nations Charter and of the International Committee of the Red Cross from the effects of minefields, mines, booby-traps and other devices" proposed by Austria;
- (40) CCW/CONF.I/GE/CRP.35 - "Article .. - Commission of States parties" proposed by the Russian Federation;
- (41) CCW/CONF.I/GE/CRP.36 - Working paper on "Article 3 - General restrictions on the use of mines, booby-traps, and other devices"

jointly submitted by Denmark, Germany and the United States of America;

- (42) CCW/CONF.I/GE/CRP.38 - "Protocol II - New article on transfers" proposed by Australia, Denmark, Ireland, The Netherlands, New Zealand, Norway, South Africa, Sweden and Switzerland;
- (43) CCW/CONF.I/GE/CRP.38/Rev.1 - "Protocol II - Article 6 ter: Transfers", proposal by Afghanistan, Australia, Cambodia, Canada, Denmark, Germany, Ireland, Latvia, the Netherlands, New Zealand, Norway, South Africa, Sweden, Switzerland and Ukraine;
- (44) CCW/CONF.I/GE/CRP.39 - "Technical Annex Provisions" submitted by the United States;
- (45) CCW/CONF.I/GE/CRP.40 - "Article 4, paragraph 2" proposed by Denmark and the United States;
- (46) CCW/CONF.I/GE/CRP.41 - "Protocol II, Article 8, paragraph 3" proposed by the International Committee of the Red Cross;
- (47) CCW/CONF.I/GE/CRP.42 - "Protocol II, Article 2, paragraph 1" proposed by the delegation of the United Kingdom;
- (48) CCW/CONF.I/GE/CRP.43 - "Proposal for a new Article 4" submitted by the delegations of Denmark, Finland, France, Germany, United Kingdom and the United States;
- (49) CCW/CONF.I/GE/CRP.44 - "Proposals regarding the Chairman's rolling text (CCW/CONF.I/GE/21)", non-paper submitted by Ukraine;
- (50) CCW/CONF.I/GE/CRP.46 - "Establishment by the Russian Federation of a moratorium on exports of anti-personnel mines" submitted by the Russian Federation;
- (51) CCW/CONF.I/GE/CRP.47 - "Proposals regarding Appendix I (Articles 10, 11, 12) submitted by Ukraine;
- (52) CCW/CONF.I/GE/CRP.48 - "Article 8 (draft)" proposal by Poland;
- (53) CCW/CONF.I/GE/CRP.49 - "Article 10 - Verification Commission" proposal by Australia, Canada, France, Germany, New Zealand, Norway and the United States;
- (54) CCW/CONF.I/GE/CRP.50 - "Proposal for new text regarding Article 9 on Technology Cooperation and Assistance" submitted by Belgium, Denmark, Greece, the Netherlands, Switzerland and the United States;
- (55) CCW/CONF.I/GE/CRP.51 - "Article 10 - Compliance Monitoring" joint proposal submitted by China, Cuba, India, Iran and Pakistan;
- (56) CCW/CONF.I/GE/CRP.52 - "Protocol II, Article 1 - Scope of Application" Proposal submitted by Denmark;
- (57) CCW/CONF.I/GE/CRP.56 - "Article 8" proposed draft by Australia, Austria, Canada, Denmark, Germany, Ireland, New Zealand, Poland and the United Kingdom;
- (58) CCW/CONF.I/GE/CRP.57 - "Article 1 - Scope of Application" proposal by India;

In addition, a large number of informal working papers were submitted by delegations or prepared by the Secretariat during the course of deliberations on the subject.

5. The Group continued to consider various proposals to amend Protocol II to the Convention regarding prohibitions and restrictions on mines, booby-traps and other devices on the basis of the revised rolling text submitted by the Chairman (CCW/CONF.I/GE/21/Annex). Upon the proposal of the Chairman, the Group agreed again to set up various working groups to deal with the subject within the framework of the following clusters of issues: (1) scope of application; (2) definitions; (3) prohibitions and restrictions; and (4) verification, fact-finding and compliance.

6. Working Group I on "Prohibitions and Restrictions" and Technical Military Experts Group on "Definitions and the Technical Annexes" held ten and two meetings respectively under the Chairmanship of Mr. C. Narain of India from 10 to 19 January, assisted by Mr. Lin Kuo-Chung of the Centre for Disarmament Affairs. Working Group I concentrated its efforts on deliberations and negotiations concerning amendments to Articles 3-7 and 9 as well as possible new articles to the Protocol. The Technical Military Experts Group devoted its efforts to Article 2 and Technical Annexes to Protocol II. Various proposals were submitted and considered in the course of those deliberations and negotiations. During this period, the Chairman of the Working Group also conducted informal consultations on those issues. The result of the work of the Group is contained in the Chairman's Rolling Text (Annex I)

7. Working Group II on "Verification, fact-finding and compliance" held 4 meetings under the Chairmanship of Ambassador Johan Molander, Chairman of the Group of Experts, assisted by Mr. Sohrab Kheradi, Secretary of the Group of Experts. The Working Group had extensive discussions on all aspects relating to the question of a possible verification system, fact-finding missions and measures of compliance with a view to elaborating possible new articles to be added to Protocol II. In the course of the deliberations a number of proposals were put forward and intensive informal consultations were conducted by the Chairman. There was no consensus on the issue, as reflected in the alternative proposals contained in the Chairman's Rolling Text.

8. Working Group III on "Scope of application", "Transfers of mines" and "Technological cooperation and assistance in mine clearance and implementation of Protocol II", held 5 formal and several informal meetings and consultations under the chairmanship of Mr. Peter Poptchev of Bulgaria from 10 to 18 January, assisted by Mr. Francesco Cottafavi of the Centre for Disarmament Affairs. The Working Group concentrated its efforts on amendments to Article 1 and 9 bis, as well as on possible new Articles to the Protocol. The result of the work of the Group is contained in the Chairman's Rolling Text.

9. On the basis of the deliberations in the various working groups, the Group of Governmental Experts, upon the proposal of the Chairman, agreed to elaborate an integrated draft text of amendments to Protocol II in the plenary meetings during the period of 19 to 20 January. The revised and integrated draft text of amendments to Protocol II of the Convention is contained in the Chairman's Rolling Text.

10. On 17 January 1995, the Group of Governmental Experts considered agenda item 11 entitled "Consideration of other proposals relating to the Convention and its existing or future Protocols". A substantial discussion was held on the possible wording of the draft Protocol on blinding weapons (Annex II) and statements were made on how to pursue further discussions on naval mines and small calibre weapon systems. A proposal on the periodicity of Review Conferences was also introduced, as reflected in Appendix II of the Chairman's Rolling Text, where previous proposals pertaining to the main Convention had already been included. The Group had before it for its consideration, the following documents under agenda item 11:

- (1) CCW/CONF.I/GE/9 - Background documentation entitled "The rationale for considering other proposals relating to the

convention and to its existing or future protocols" prepared by the International Committee of the Red Cross;

- (2) CCW/CONF.I/GE/11 - "Draft Protocol on Blinding Weapons" - submitted by Sweden;
- (3) CCW/CONF.I/GE/12 - "Draft Protocol on Naval Mines" submitted by Sweden;
- (4) CCW/CONF.I/GE/14 and Corr.1 - "Blinding weapons: explanatory memorandum to the proposal for a prohibition" submitted by Sweden;
- (5) CCW/CONF.I/GE/15 - "Small calibre weapon system: Assistance in Wound Ballistics Research and Testing" submitted by Switzerland;
- (6) CCW/CONF.I/GE/16 - "Draft Protocol on small calibre weapon systems" submitted by Switzerland;
- (7) CCW/CONF.I/GE/CRP.15 - "Convention - Article 5 - Entry into Force; Article 9 - Denunciation and Protocol II - Article 6 - Prohibition on the use of certain mines" submitted by the Russian Federation;
- (8) CCW/CONF.I/GE/CRP.28 - "Draft Protocol on blinding weapons" submitted by the International Committee of the Red Cross;
- (9) CCW/CONF.I/GE/CRP.30 - "Draft Protocol on naval mines" submitted by France;
- (10) CCW/CONF.I/GE/CRP.45 - "Various proposals on blinding weapons" - Non-paper submitted by Sweden.
- (11) CCW/CONF.I/GE/CRP.55 - "Proposed Amendment to Article 8 of the Convention" submitted by New Zealand, Ireland, Australia and Sweden;

11. On 20 January 1995, the Group further considered agenda item 12 regarding organizational matters for the Review Conference and took the following decisions:

(a) On item 12 (a) regarding the date and duration of the Review Conference, the Group decided to hold the Conference in Vienna from 25 September to 13 October 1995.

(b) On item 12 (b) regarding the draft rules of procedure for the Conference, the Group approved the draft rules of procedure as contained in document CCW/CONF.I/GE/CRP.53/Rev.1 as amended (Annex III) and recommended it for adoption by the Conference.

(c) On item 12 (c) regarding the provisional agenda for the Conference, the Group approved the draft provisional agenda for the Review Conference as contained in document CCW/CONF.I/GE/CRP.54/Rev.1 (Annex IV) and recommended it for adoption by the Conference.

(d) On item 12 (e) regarding the financial arrangements for the Conference the Group adopted the estimated costs for the Review Conference as contained in document CCW/CONF.I/GE/22/Rev.1. In order to enable in particular developing mine-stricken countries to participate in the Review Conference, the Group invited States parties to consider providing financial assistance to those countries for that purpose.

(e) On item 12 (h) regarding background documentation for the Review Conference, the Group decided not to request any further background documentation for the Conference.

(f) On item 12 (i) regarding the term "Final Document(s)", for the Review Conference, the Group decided to use the term "Final Documents" in connection with the work of the Conference.

(g) On item 12 (j) regarding the appointment of a provisional Secretary-General of the Conference, the Group decided to invite the Secretary-General of the United Nations to nominate a provisional Secretary-General of the Review Conference, in consultation with the States parties, in order to carry out various tasks during the period beginning now until the convening of the Conference, the nominee to be confirmed by the Review Conference. The Group also decided to request its Chairman to convey the wish of the States parties to the appropriate United Nations authorities that Mr. Sohrab Kheradi, Deputy Director of the Centre for Disarmament Affairs and Secretary of the Group of Governmental Experts, be appointed as provisional Secretary-General of the Review Conference, with the understanding that his nomination would be confirmed by the Review Conference.

12. At its final meeting on 20 January 1995, the Group of Governmental Experts unanimously decided to nominate Ambassador Johan Molander (Sweden), the present Chairman of the Group as the President of the Review Conference .

13. The progress reports of the previous three sessions of the Group of Governmental Experts (CCW/CONF.I/GE/4, CCW/CONF.I/GE/8, CCW/CONF.I/GE/21) are annexed to this Final Report for the consideration of the Review Conference (Annex V).

14. At its final plenary meeting, on 20 January 1995, the Group of Experts considered and adopted its draft progress report for the fourth session, as contained in document CCW/CONF.I/GE/CRP.58, as orally amended, which is to be issued as document CCW/CONF.I/GE/23.

ANNEX I

Chairman's Rolling Text

Article 1

[Material] Scope of Application

ALTERNATIVE A:

[1. This Protocol relates to the use on land of the mines, booby-traps and other devices defined herein 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.

2. With the main purpose of protecting the civilian population, this Protocol shall apply in all circumstances including armed conflict and times of peace.

3. Nothing in this Protocol shall be invoked as affecting the purposes and principles contained in the United Nations Charter.

4. The application of the provisions of this Protocol to or by parties to a conflict which are not States parties shall not change their legal status or the legal status of a disputed territory, either explicitly or implicitly.]

ALTERNATIVE B:

[This Protocol relates to the use on land of the mines, booby-traps and other devices defined herein 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.

2. This Protocol shall apply to situations referred to in Articles 2 and 3 and common to the Geneva Convention of 12th August 1949. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

3. In case of conflicts referred to in para. 2 above that take place in the territory of a High Contracting Party that has accepted this Protocol, the dissident armed groups in its territory shall be automatically bound to apply the prohibitions and restrictions of this Protocol on the same basis.

4. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.

5. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the High Contracting Party in the territory of which that conflict occurs.

6. The application of the provisions of this Protocol to Parties to a conflict which are not High Contracting Parties that have accepted this Protocol shall not change their legal status or the legal status of a disputed territory, either explicitly or implicitly.]

Article 2

Definitions

For the purpose of this protocol:

1. "Mine" means a munition placed under, on or near the ground or other surface area and designed to be exploded by the presence, proximity or contact of a person or vehicle.

2. ["Remotely-delivered mine"] means a mine not directly emplaced but delivered by artillery, missile, rocket, mortar, or similar means, or dropped from an aircraft. [Mines delivered from a land-based system from less than 500 metres are not considered to be "remotely delivered".]

3. "Anti-personnel mine" means a mine [designed to be] exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons.

4. "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.

5. "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.

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. "Minefield" is a defined area in which mines have been emplaced and "Mined area" is an area which is dangerous due to the presence [or suspected presence] of mines.

9. "Recording" means 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 minefields, mined areas, mines, booby-traps and other devices.

10. "Self destructing mechanism" means an incorporated automatically functioning mechanism which secures the destruction of a munition.

11. "Self neutralizing mechanism" means an incorporated automatically functioning mechanism which renders a munition inoperable.

[12. "Self deactivating" means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component that is essential to the operation of the munition.]

[13. "Remote control" means a control by commands from a distance.]

[14. "Anti-handling device" means a device by which a mine will explode when an attempt is made to remove, neutralize or destroy the mine.]

or ["Anti-handling device" means a device to protect a munition against removal.]

Article 3

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

1. The Article applies to:

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

2. Each State party or party to a conflict is, in accordance with the provisions of this Protocol, responsible for all mines, booby-traps, and other devices employed by it and undertakes to clear, remove or destroy them as specified in Article 9 of this Protocol.

3. It is prohibited in all circumstances to use any [mine,] booby-trap or other device which is designed to cause superfluous injury or unnecessary suffering.

4. [All weapons] to which this Article applies shall meet the relevant standards [for armed period, reliability, [detectability,] design and construction] as specified in the Technical Annex.

5. It is prohibited in all 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.

6. 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.

[7. Several clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects cannot be treated as a single military objective.]

8. All feasible precautions shall be taken to protect civilians from the effects of weapons to which this Article applies. 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. These circumstances include, but are not limited to:

(a) the short and long term effect of landmines upon the local civilian population for the duration of the minefield;

(b) possible measures to protect civilians (e.g., fencing, signs, warning and monitoring);

(c) the availability and feasibility of using alternatives;
and

(d) the short and long-term military requirements for a minefield.

9. Effective advance warning shall be given of any emplacement of mines, booby-traps and other devices which may affect the civilian population, unless circumstances do not permit.

[10. Restrictions and prohibitions in this Protocol shall facilitate the ultimate goal of a complete ban on the production, stockpiling, use and trade of anti-personnel landmines.]

Article 4

Restrictions on the use of anti-personnel mines other than [remotely delivered mines,] [booby-traps] and other devices

1. This Article applies to:

- (a) Anti-personnel 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 which are not self-destructing,¹ unless:

(a) they are placed within a perimeter-marked area that is monitored by military personnel and protected by fencing or other means, to ensure the effective exclusion of civilians from the area. The marking must be of a distinct and durable character and must at least be visible to a person who is about to enter the perimeter-marked area; and

(b) they are cleared before the area is abandoned, unless the area is turned over to the forces of another State that accept responsibility for the maintenance of the protection required by this Article and the subsequent clearance of those weapons.

3. A party to the conflict is relieved from further compliance with the provisions of subparagraphs 2 (a) and 2 (b) above only if such compliance is not feasible due to forcible loss of control of the area as a result of enemy military action, including situations where direct enemy military action makes it impossible to comply. If the party of the conflict regains control of the area, it shall resume compliance with the provisions of subparagraphs 2 (a) and 2 (b).

4. If the forces of a party to the conflict gain control of an area in which weapons to which this Article applies have been laid, such forces, shall, to the maximum extent feasible, maintain and, if necessary, establish the protections required by this Article until such weapons have been cleared.

¹ The chapeau of para.2 will require reconsideration in the light of discussion on, inter alia, the Technical Annex and Article 6 bis.

5. States parties shall take all feasible measures to prevent the unauthorized removal, defacement, destruction or concealment, of any device, system or material used to establish the perimeter of a perimeter-marked area.

6. [To facilitate clearance, it is prohibited to use [anti-personnel] mines which are not in compliance with the provisions on detectability in the Technical Annex.]

Article 5

[Restrictions on the use of remotely delivered mines

It is prohibited to use remotely delivered mines which are not self-destructing.]

Article 5 bis

[Prohibitions on the use of [anti-personnel] mines
which are not detectable²

It is prohibited to use [anti-personnel] mines which are not in compliance with the provisions on detectability in the Technical Annex.]

Article 6

Prohibitions on the use of booby-traps and other devices

1. Without prejudice to the rules of international law applicable in armed conflict relating to treachery and perfidy, it is prohibited in all circumstances to use booby-traps and other devices which are in any way attached to or associated with:

(a) internationally recognized protective emblems, signs or signals;

² Acceptance of this proposal would entail:

(a) deletion of the word "detectability" from Article 3, para.4;

(b) deletion of Article 4, para.6;

(c) deletion of the square brackets in the Technical Annex around the word "mines" in the chapeau of para.2, around the word "mine" in para.2(a), and around the word "mines" in para.2 (b).

- (b) sick, wounded or dead persons;
- (c) burial or cremation sites or graves;
- (d) medical facilities, medical equipment, medical supplies or medical transportation;
- (e) children's toys or other portable objects or products specially designed for feeding, health, hygiene, clothing or education of children;
- (f) food or drink;
- (g) kitchen utensils or appliances except in military establishments, military locations or military supply depots;
- (h) objects clearly of a religious nature;
- (i) historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
- (j) animals or their carcasses.

2. It is prohibited to use booby-traps [and other devices] in the form of an apparently harmless portable object which is specifically designed and constructed to contain explosive material.

[3. It is prohibited to use booby-traps in armed conflicts not of an international character.]

Article 6 bis³

[Prohibition of the use, development, manufacture, stockpiling and transfer of certain mines and booby-traps]

[1. It is prohibited to use, develop, manufacture, stockpile or transfer, directly or indirectly:

- Anti-personnel mines defined in Article 2, [paragraph 3] of this Protocol; and]
- [Anti-personnel mines without self-destruction or self-neutralizing mechanisms]
- [- Booby-traps defined in Article 2, [paragraph 4] of this Protocol.

³ The inclusion of the issue of development, manufacture, stockpiling and transfer of mines, booby traps and other devices is not accepted by all delegations.

2. The States parties undertake to destroy the weapons to which this article applies and which are in their ownership and/or possession.]

[3. It is prohibited to use [, manufacture, stockpile or transfer] [anti-personnel] mines which cannot be detected, that is, which cannot be identified using widely available equipment such as electro-magnetic mine detectors [as specified in the Technical Annex].

[4. The States parties shall notify the Depositary of all stockpiles of weapons to which this Article applies and undertake to destroy them within a period of .. years. The States shall report annually on the progress made regarding implementation of paragraph 3 of this Article.]

Article 6 ter

[Transfers⁴]

[In order to prevent the use of mines contrary to the purposes of this Protocol, each High Contracting Party:

1. Undertakes not to provide any mines to non-State entities;
2. Undertakes not to transfer⁵ any mines to States which are not bound by this Protocol;
3. Undertakes not to transfer to any other High Contracting Party any mines the use of which is prohibited in all circumstances;
4. Shall ensure that in transferring to other High Contracting Parties bound by this Protocol any mines the use of which is restricted under this Protocol, the receiving High Contracting Party agrees to comply with the relevant provisions of international humanitarian law.]

⁴This article is without prejudice to the position of delegations on the issue of prohibitions or restrictions on the production and stockpiling of certain conventional weapons.

⁵It is understood that "transfers" involve, in addition to the physical movement of mines into or from national territory, the transfer of title to and control over the mines.

Article 7

Recording and Use of information on minefields, mined areas, mines, booby-traps and other devices

1. All information concerning minefields, mined areas, mines, booby-traps and other devices shall be recorded in accordance with the provisions of the Technical Annex.
2. All such records shall be retained by the parties, who shall without delay after [the cessation of active hostilities] [the effective cessation of hostilities and the meaningful withdrawal of forces from the combat zones]:
 - (a) Take all necessary and appropriate measures, including the use of such information, to protect civilians from the effects of the minefields, mined areas, mines, booby-traps and other devices and,
 - (b) Make available to the other party or parties to the conflict concerned and to the Secretary-General of the United Nations all such information in their possession concerning minefields, mined areas, mines, booby-traps and other devices laid by them in areas no longer under their control.
3. This Article is without prejudice to the provisions of Article 8 of this Protocol.

Article 8

[Protection from the effects of minefields; mined areas; mines; booby-traps and other devices]

1. When an operation covered by the [Convention on the Safety of United Nations and Associated Personnel] is taking place in any area, each party to the conflict, if requested by the head of the operation, shall make available to the head of the operation all information in the party's possession concerning the location of minefields, mined areas, mines, booby traps and other devices in that area and in order to protect personnel covered by the above mentioned Convention who are participating in such operations shall, as far as it is able;

- (a) remove or render harmless all mines, booby traps or other devices in that area; and

(b) take such measures as may be necessary to protect such personnel from the effects of mines, booby traps and other devices.⁶

2(a) When a mission of a [regional arrangement or agency acting under Chapter VIII of the Charter of the United Nations] performs functions in any area with the consent of the parties to a conflict, each party, if requested by the head of that mission, shall make available to the head of that mission all information in the party's possession concerning the location of minefields, mined areas, mines, booby traps and other devices in that area and shall, as far as it is able, provide to the mission and its personnel the protections described in sub-paragraphs 1(a) and (b);

[2(b) When a mission of the International Committee of the Red Cross performs functions assigned to it by the Geneva Conventions of 1949 and their Additional Protocols of 1977, or a humanitarian mission of the United Nations' system not otherwise covered by this article performs functions with the consent of the parties to the conflict, each party, if requested by the head of that mission, shall, to the extent feasible, provide to that mission and its personnel the protections described in sub-paragraph 1(a) and (b) and shall, as far as it is able, identify to the head of that mission minefields, mined areas, mines, booby traps and other devices in the area where those functions are being performed [and provide safe access either through the clearance of a lane through minefields or by designating an alternative land route that will permit the accomplishment of these mandated missions].]

⁶ The following alternative drafting of paragraph 1 has been suggested:

1. When an operation covered by the Convention on the Safety of United Nations and Associated Personnel is taking place in any area, each party to the conflict, if requested by the head of the operation in order to protect personnel covered by the above mentioned Convention who are participating in such operations shall, as far as it is able:

(a) make available to the head of the operation all information in the party's possession concerning the location of minefields, mined areas, mines, booby traps and other devices in that area.

(b) remove or render harmless all mines, booby traps or other devices in that area; and

(c) take such measures as may be necessary to protect such personnel from the effects of mines, booby traps and other devices.

Consequential reshuffling of wording and change in numbering in certain subsequent paragraphs may be necessary.

2(c) When the mission of an [impartial humanitarian organization] not otherwise covered by this article, performs functions with the consent of the parties to a conflict, each party, if requested by the head of that mission shall, to the extent feasible, provide to that mission and its personnel the protections described in subparagraphs 1(a) and (b) and shall, as far as it is able identify to the head of that mission all areas where minefields, mined areas, mines, booby traps and other devices which may impede the performance of those functions are known or believed to be located.

3. When a United Nations fact-finding mission or other fact-finding mission with the consent of the parties, not otherwise covered by this article performs functions in any area, each party to the conflict concerned shall provide protection to that mission except where, because of the size of such mission, it cannot adequately provide such protection. In that case it shall make available to the head of the mission the information in its possession concerning the location of minefields, mined areas, mines, booby-traps and other devices in that area.

[4. Nothing in this Convention shall affect the rights and obligations of United Nations' and Associated Personnel as set out in the Convention referred to in paragraph 1 above.]

Article 9

Removal of minefields, mined areas, mines, booby-traps and other devices [and international cooperation]

1. [Without delay] after [the cessation of active hostilities] [the effective cessation of hostilities and the meaningful withdrawal of forces from the combat zone] all minefields, mined areas, mines, booby-traps and other devices shall be cleared, removed, destroyed or maintained in accordance with Article 3 and paragraph 2 of Article 4 of this Protocol.

(a) Each party bears such responsibility with respect to minefields, mined areas, booby-traps and other devices in areas under its control.

(b) With respect to minefields, mined areas, mines, booby-traps and other devices laid by a party in areas over which it no longer exercises control, such party shall provide to the responsible party pursuant to paragraph 1(a) above, to the extent permitted by such party, technical and material assistance necessary to fulfil such responsibility.

2. At all times necessary, the parties shall endeavour to reach agreement, both among themselves and, where appropriate, with other States and with international organizations, [on the provision of technical and material assistance,]⁷ including, in appropriate circumstances, undertaking of joint operations, necessary to fulfil such responsibilities.

Article 9 bis

Technological Cooperation and Assistance in Mine Clearance and Implementation of Protocol II

1. Each State party shall undertake to facilitate [and shall have the right to participate in] the [fullest possible] exchange of equipment, material and scientific and technological information concerning the implementation of this Protocol and means of mine clearance. [The States parties shall undertake not to maintain or impose any restrictions on the transfer of equipment or technology for mine clearance.]

2. Each State party undertakes [to give careful consideration to providing] [to provide] such assistance through the United Nations, international bodies,⁸ or on a bilateral basis.

Mine Clearance

3. The States parties shall undertake to provide information concerning various means and technologies of mine clearance to the data bank established within the United Nations system.

[4. The coordinated mine-clearance programme established within the United Nations as per in the UNGA Resolution 48/7 adopted without a vote, shall also, within the resources available to it, and at the request of a State party, provide expert advice and assist the State party in identifying how its programmes for the mine clearance could be implemented.

5. Each State party undertakes to provide assistance through the UN coordinated programme and other relevant UN bodies and to this end to elect to take one of the following two measures:

(a) to contribute to the voluntary fund for assistance, established by UN coordinated programme;

⁷Paragraph 2 will be finalized in light of the final text of Article 9 bis.

⁸The issue of a possible decision-making or a consultative mechanism will be further considered.

(b) to declare not later than 90 days after the amended protocol II enters into force for it, the kind of assistance it might provide in response to an appeal by the UN coordinated programme. If, however, a State party subsequently is unable to provide the assistance envisaged in its declaration it is still under the obligation to provide assistance in accordance with this paragraph.]

6. Requests by States parties for assistance, substantiated by relevant information, may be submitted to the United Nations, to other appropriate bodies or to other States. These requests [may be provided] to the Depositary, which shall transmit them to all States parties and relevant international organizations. [Subsequently after the receipt of the request an [investigation] [assessment by the United Nations coordinated programme] [shall] [may] be initiated in order to provide foundation for further action.] The Depositary shall [,as appropriate,] provide a report to States parties on the facts relevant to these requests, as well as the type and scope of assistance that may be needed.

Implementation of Protocol II

7. The States parties shall undertake to provide information [to the Depositary] [to the Commission] concerning the implementation of this Protocol, including meeting the requirements for self-destructing and other features, as specified in this Protocol.

[8. Upon receiving the request from the State party for any technical assistance, [the Depositary] [the Commission] will render this assistance free of cost.

It will employ all possible means at its disposal to ensure:

(a) Transfer of technology from advanced nations to the developing countries for acquisition on no cost basis;

(b) Allocate requisite funds for the assistance through United Nations coordinated programme.]

Technical Annex

1. Recording

(a) The recording of the location of mines other than [remotely delivered mines,] minefields, mined areas, [areas of] booby-traps and other devices shall be done in accordance with the following:

(i) The location of the minefields, [mined areas], [areas of] booby-traps and other devices shall be specified accurately by relation to the coordinates of at least two reference points and the estimated dimensions of the area containing these devices in relation to those reference points.

(ii) Maps, diagrams or other records shall be made in such a way as to indicate the location of minefields, mined areas, [booby-traps] and other devices in relation to reference points, these records shall also indicate their perimeters and extent.

(iii) For purposes of detection and clearance of mines, [booby-traps] and other devices, maps, diagrams or other records shall contain complete information on the type, number, emplacing method, type of fuse and life time, date [and time] of laying and other relevant information of all the munitions laid. Whenever feasible the minefield record shall show the exact location of every mine; except in row minefields where the row location is sufficient.

(b) The estimated location and area of remotely delivered mines shall be specified by coordinates of reference points (normally corner points) and shall be ascertained and when feasible marked on the ground at the earliest opportunity. The total number and type of mines laid, the date [and time] of laying and the self destruction time periods shall also be recorded.

(c) Copies of records are to be held at a level of command sufficient to guarantee their safety [as far as possible].

2. Detectability of [anti-personnel][mines]

(a) [A sufficient quantity of not easily removable material or any appropriate device, incorporating detectability equivalent to 8 grams of iron in a single coherent mass, to enable detection by commonly available technical detection equipment shall be placed in or on every [anti-personnel] [mine] emplaced.]

(b) [All [anti-personnel][mines] shall have irremovable metallic elements in their construction to enable detection and [clearance by standard mine-sensing devices].]

[(c) No [anti-personnel] [mines], [booby-traps] and other devices may be designed such that they will detonate by the operation of standard mine-sensing devices.]

3. Specifications for self-destructing anti-personnel mines

Anti-personnel mines required by Article 4, paragraph 2 and Article 5 of this Protocol to be self-destructing shall be designed and constructed so that no more than [1 in every 1000] activated will fail to self-destruct [after no more than 7-90 days];¹ [and they shall have a [back-up feature] [self-deactivation feature], designed and constructed so that the mine will no longer function as a mine [30 - 365 days, with a reliability of 1 in every 1000 surviving mines] [as soon as feasible] if the self-destruction mechanism fails.]

4. International signs for minefields and mined areas

Signs similar to the example in Annex A shall be utilized in the marking of minefields and mined areas. Each sign [shall] [should] meet the following criteria to ensure its visibility and recognition by the civilian population:

(a) Size and shape: a triangle or square no smaller than 28 centimetres (11 inches) by 20 centimetres (7.9 inches) for a triangle, and 15 centimetres (6 inches) per side for a square.

(b) Colour: red or orange with a yellow reflecting border.

(c) Symbol: the symbol illustrated in Annex A, or an alternative readily recognizable in the area in which the sign is to be displayed as identifying a dangerous area.

(d) Language: the sign should contain the word "mines" in one of the six official languages of this Convention (Arabic, Chinese, English, French, Russian and Spanish) and the language(s) prevalent in that area.

(e) Spacing: signs should be placed around the minefield or a mined area at a distance sufficient to ensure their visibility at any point by a civilian approaching the area.

¹ The self-destructing time needs to be further discussed in relation to the time of laying/time of activation.

Warning Sign for Areas Containing Landmines



APPENDIX I

Proposals relating to verification and compliance¹

ALTERNATIVE A:^{2 3 4}

[Commission of States parties]

1. For the purposes of this Protocol, a Commission shall be established by the States parties. The Commission of States parties shall meet in Geneva regularly. Any State party may appoint a representative to the Commission. The ICRC shall be invited to participate in the work of the Commission as an observer. The Commission shall consider annual reports provided by the States parties on the implementation of the Protocol. The Commission shall take its decisions by consensus if possible, but otherwise by a majority of members present and voting.

2. Each State party undertakes to provide annually the relevant information to the Commission, i.e.

(a) Progress on implementation of the Protocol II;

(b) Information on mine clearance;

(c) Information on civilian casualties occurring due to deployment of mines in its territory.

3. Each State party undertakes to provide/exchange information with other State parties to promote transparency and credibility for wider adherence to this Protocol requirements/restrictions.

[4. Each State party to this Protocol undertakes to facilitate the fullest possible exchange of technological information in order to assist States parties to comply with restrictions/requirements of this Protocol.]

¹Several delegations expressed the view that, whilst not agreeing to every provision of each proposal, the three alternatives A,B and C, were not exclusive but complementary to each other.

² Some delegations consider that elements of this text may be more appropriately addressed through amendment of the Convention, rather than of Protocol II. Further, this text is without prejudice to proposals for more frequent meetings of the Review Conference than currently provided for in the Convention.

³ The concept of a "Commission" proposed has not been accepted by a group of States.

⁴ A group of delegations considers that the concept of a "Commission" relates to and complements alternatives B and C.

5. The Commission shall also carry out other functions as are necessary for the implementation and review of this Protocol.

6. The costs of the Commission's activities shall be covered by the States parties in accordance with the United Nations scale of assessments, adjusted to allow for differences between the number of States Members of the United Nations and the number of States parties.]

ALTERNATIVE B:⁵

[Article 10 Compliance Monitoring

1. Each State party undertakes to protect civilians from the effects of the use of landmines and for that purpose undertakes to take necessary measures to prohibit and prevent the indiscriminate use of landmines. The measures shall include:

- (a) legislation, if necessary;
- (b) education of military personnel concerned on the relevant provisions of this Protocol;
- (c) dissemination to the civilian population of the information on possible effects of landmines and on signs used for minefields and mined areas;
- (d) appropriate measures to meet the technical requirements set out in this Protocol;
- (e) measures to facilitate the exchange of technical information with other States parties on mine clearance and on the activities it conducted for the purpose of paragraph (d) in this Article;

2. Each State party affirms the recognized objective of prohibiting and preventing the indiscriminate use of landmines and to this end undertakes to provide annual report to the Depositary. The report shall contain the following:

- (a) the relevant legislation;
- (b) any measures it has taken to educate the military personnel and to disseminate the relative information for the purpose of this Protocol;
- (c) any measure it has taken to meet the technical requirements set out in this Protocol;
- (d) information on recovery, destruction or clearance after military use of landmines;
- (e) information on casualty to civilian population occurred due to use of such mines in its territory and measures it has taken to redress the situation;
- (f) measures it has taken on international technical information exchange and on international cooperation on mine clearance;

3. The Depositary shall distribute the above-mentioned report, upon request, to any other State party.]

⁵Alternative B has been presented as an alternative text to alternatives A and C and is, according to several delegations, the most appropriate. It is not complementary to any other proposal.

ALTERNATIVE C:⁶ ⁷

Article 10

Verification Commission

1. Each State party shall be entitled to ask the Depositary to convene a Verification Commission, within a period of one week, to conduct an inquiry in order to clarify and resolve any questions relating to possible non-compliance with the provisions of this Protocol concerning the use of mines, booby-traps and other devices. The request for an inquiry shall be accompanied by relevant information and evidence confirming its validity.

2. (a) The Verification Commission, which shall meet in New York, shall be open to the participation of all States parties. Subject to the provisions of both paragraph 3 of this article and paragraph 1 of Article 11, the Verification Commission shall take its decisions by consensus if possible, but otherwise by a majority of members present and voting.

(b) The costs of the Verification Commission's activity shall be covered by the States parties in accordance with the United Nations scale of assessments, adjusted to allow for differences between the number of States Members of the United Nations and the number of States parties.

3. (a) An inquiry shall be held unless the Verification Commission decides, not later than 48 hours after it has been convened, with a two thirds majority of its members present and voting that the information and evidence produced does not justify an inquiry.

(b) For the purposes of the inquiry the Verification Commission shall seek useful assistance and relevant information from States parties and international organizations concerned and from any other appropriate sources.

Article 11

Fact-finding missions

1. The inquiry shall be supplemented by evidence collected on the spot or in other places under the jurisdiction or control of the party to the conflict concerned unless the Verification Commission decides with a two thirds majority of its members

⁶The concept of verification for this Protocol is not accepted by a group of countries.

⁷One delegation submitted in document CCW/CONF.I/GE/CRP.47 proposals elaborating on this text, which could be developed further.

present and voting that no such evidence is required. The Verification Commission shall notify the party to a conflict concerned of the decision to send a team of experts to conduct a fact-finding mission at least 24 hours before the team of experts is expected to arrive. It shall inform all States parties of the decision taken as soon as possible.

2. For the purposes of paragraph 1 of this article, the Depositary shall prepare a list of qualified experts provided by States parties, and constantly keep this list updated. The experts shall be designated in view of the particular fields of expertise that could be required in a fact-finding mission concerning the alleged use of mines, booby-traps and other devices. The initial list as well as any subsequent change to it shall be communicated, in writing, to each State party without delay. Any qualified expert included in this list shall be regarded as designated unless the State party, not later than thirty days after its receipt of the list declares its non-acceptance, in which event the Verification Commission shall decide whether the expert in question shall be designated.

3. Upon receiving a request from the Verification Commission, the Depositary shall appoint a team of experts from the list of qualified experts, acting in their personal capacity, to conduct a fact-finding mission at the site of the alleged incident. Experts who are nationals of States parties involved in the armed conflict concerned or of States parties which requested the inquiry shall not be chosen. The Depositary shall dispatch the team of experts at the earliest opportunity taking into account the safety of the team.

4. The party to a conflict concerned shall make the necessary arrangements to receive, transport and accommodate the team of experts in any place under its jurisdiction or control.

5. When the team of experts has arrived on the spot, it may hear a statement of information by official representatives of the party to a conflict concerned and may question any person likely to be connected with the alleged violation. The team of experts shall have the right of access to all areas and installations where evidence of violation of this Protocol could be collected. The party to a conflict concerned may make any arrangements it considers necessary for the protection of sensitive equipment, information and areas unconnected with the subject of the fact-finding mission, or for any constitutional obligations it may have with regard to proprietary rights, searches and seizures, or other constitutional protection or for the protection of the conduct of military operations. In that event, it shall make every reasonable effort to satisfy the legitimate needs of the team of experts through other means.

6. After having completed its fact-finding mission, the team of experts shall submit a report to the Depositary not later than one week after leaving the territory of the State party in question. The report shall summarize the factual findings of the mission related to the alleged non-compliance with the Protocol. The Depositary shall promptly transmit the report of the team of experts to all States parties.

Article 12

Compliance

1. The States parties undertake to consult each other and to cooperate with each other in order to resolve any problems that may arise with regard to the interpretation and application of the provisions of this Protocol.
2. If the Verification Commission concludes, based on the inquiry, including any report of the team of experts referred to in Article 11, paragraph 6, that there has been a violation of the provisions of this Protocol on the use of mines, booby-traps and other devices, the Verification Commission shall, as appropriate, request that the party responsible for the violation take appropriate measures to remedy the situation.
3. If weapons covered by this Protocol have been used in violation of its provisions, the States parties shall consider measures designed to encourage compliance, including collective measures in conformity with international law, and may, in accordance with the UN Charter, refer the issue to the attention of the Security Council.
4. The provisions of the 1949 Geneva Conventions relating to measures for the repression of breaches and grave breaches shall apply to breaches and grave breaches of this Protocol during armed conflict. Each party to a conflict shall take all appropriate measures to prevent and suppress breaches of this Protocol. Any act or omission occurring during armed conflict in violation of this Protocol, if committed wilfully or wantonly and causing death or serious injury to the civilian population shall be treated as a grave breach. A party to the conflict which violates the provisions of this Protocol shall, if the case demands, be liable to pay compensation, and shall be responsible for all acts committed by persons forming part of its armed forces. States parties and parties to a conflict shall require that commanders ensure that members of the armed forces under their command are aware of, and comply with, their obligations under this Protocol.]

APPENDIX II

Other Proposals¹

RUSSIAN FEDERATION

[Article 5 of the Convention

Entry into Force

1. This Convention shall enter into force three months after the date of deposit of the sixth instrument of ratification, acceptance, approval or accession.

Paragraphs 2, 3 and 4 of this Article to be modified in accordance with the amendments to paragraph 1.]

[Article 9

(a) New paragraphs. Denunciation

1. Any High Contracting Party may, by so notifying the Depositary, denounce this Convention or any of the annexed Protocols upon the expiry of 10 years since the date on which the Convention and any of its Protocols came into force. Such denunciation shall take effect one year after the date on which it is registered.

2. Any High Contracting Party which ratifies this Convention and any of its annexed Protocols and does not, within the year following the expiry of the 10-year period mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, shall be bound for a further 10-year period and may thereafter denounce this Convention or any of its annexed Protocols upon the expiry of each 10-year period under the terms of this article.

(b) The first sentence of the existing paragraph 2 to be deleted.]

¹ The proposals in Appendix II require further consideration.

NEW ZEALAND, IRELAND, AUSTRALIA AND SWEDEN

[Article 8 of the Convention²

Article 8(3)(c) of the Convention signals a need to consider at the first Review Conference the question of periodicity of review meetings. This issue could be addressed either through a decision of the Conference or an amendment to the Convention.]

² The proposal on Article 8 is further elaborated in CCW/CONF.I/GE/CRP.55.

ANNEX II

Annex II contains a proposal on a new protocol on blinding weapons submitted by the Chairman of the Governmental Group of Experts and widely consulted and discussed in the Group. The text does not, at the present stage, commit any delegation. It is forwarded to the Review Conference for its consideration.

Informal Working Paper submitted by the Chairman

Protocol on Blinding Weapons (Protocol IV)

Article 1

It is prohibited to employ laser beams of a nature to cause permanent blindness [serious damage] against the eyesight of persons as a method of warfare.

Article 2

It is prohibited to [produce and] employ laser weapons primarily designed to blind [permanently];

Article 3

Blinding as an incidental or collateral effect of the legitimate employment of laser beams on the battlefield is not covered by this prohibition.

ANNEX III

First Review Conference of the States Parties to the
Convention on Prohibitions or Restrictions on the Use
of Certain Conventional Weapons which may be Deemed to
be Excessively Injurious or to have Indiscriminate Effects

DRAFT RULES OF PROCEDURE

CHAPTER I

REPRESENTATION AND CREDENTIALS

Composition of delegations

Rule 1

1. Each State party to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects (hereinafter "the Convention") may be represented at the Review Conference. States non-parties to the Convention may participate as observers.

2. The delegation of each State participating in the Conference shall consist of a head of delegation and such other representatives, alternate representatives and advisers as may be required.

Designated representatives

Rule 2

An alternate representative or an adviser may act as a representative upon designation by the head of delegation.

Submission of credentials

Rule 3

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Secretary-General of the Conference, if possible not later than 24 hours after the opening of the Conference. Any later change in the composition of delegations shall also be submitted to the Secretary-General of the Conference. The credentials shall be issued by the Head of State or Government, or by the Minister for Foreign Affairs.

Credentials Committee

Rule 4

1. There shall be a Credentials Committee of five members elected by the Conference on the proposal of the President.

2. The Credentials Committee shall examine the credentials of representatives and report to the Conference.

Provisional participation

Rule 5

Pending a decision of the Conference upon their credentials, representatives shall be entitled to participate provisionally in the Conference.

CHAPTER II

OFFICERS

Elections

Rule 6

The Conference shall elect from among the States parties participating in the Conference a President, nine Vice-Presidents as well as the Chairman and a Vice-Chairman for each of the three main committees, the Drafting Committee and the Credentials Committee. These officers shall be elected so as to ensure the representative character of the General Committee provided for in rule 10.

Acting President

Rule 7

1. If the President finds it necessary to be absent from a meeting or any part thereof, he shall designate one of the Vice-President to take his place.
2. A Vice-President acting as President shall have the same powers and duties as the President.

Replacement of the President

Rule 8

If the President is unable to perform his functions, a new President shall be elected.

Participation of the President in decision-making

Rule 9

The President, or a Vice-President acting as President, shall not participate in making decisions, but may designate another member of his delegation to do so in his place.

CHAPTER III

GENERAL COMMITTEE

Composition

Rule 10

The General Committee shall be composed of the President, who shall preside, nine Vice-Presidents, the Chairmen of the three main Committees, the Drafting Committee and the Credentials Committee.

Substitute members

Rule 11

1. In case of absence, the President or a Vice-President, may designate a member of his delegation as his substitute.
2. In case of absence, the Chairmen and the Vice-Chairmen of the three main Committees or of the Drafting Committee or of the Credentials Committee shall designate another officer of the respective Committee or, if none is available, a member thereof as his substitute. However, such a substitute shall not have the right to participate in making decisions if he is of the same delegation as another member of the General Committee.

Chairman

Rule 12

The President or, in his absence, one of the Vice-Presidents designated by him, shall serve as Chairman of the General Committee.

Functions

Rule 13

In addition to carrying out other functions provided for in these rules, the General Committee shall assist the President in the general conduct of the business of the Conference and, subject to decisions of the Conference, shall ensure the co-ordination of its work.

CHAPTER IV

SECRETARIAT

Duties of the Secretary-General

Rule 14

1. There shall be a Secretary-General of the Conference. He shall act in that capacity in all meetings of the Conference, its Committees and working groups, and may designate a member of the Secretariat to act in his place at these meetings.

2. The Secretary-General of the Conference shall direct the staff required by the Conference and its subsidiary organs.

Duties of the secretariat

Rule 15

The secretariat of the Conference shall, in accordance with these rules:

- (a) Interpret speeches made at meetings;
- (b) Receive, translate, reproduce and distribute the documents of the Conference;
- (c) Publish and circulate the instruments adopted by the Conference, including its Final Document, and all the official documents of the Conference;
- (d) Prepare and circulate summary records of plenary meetings;
- (e) Make and arrange for the keeping of sound recordings of meetings;
- (f) Arrange for the custody and preservation of the records of the Conference in the Archives of the United Nations; and
- (g) Generally perform all other work required in connection with the servicing of the Conference.

Costs

Rule 16

The costs of the Review Conference will be met by the States parties to the Convention participating in the Review Conference in accordance with the United Nations scale of assessment, adjusted to take into account differences between the United Nations membership and the participation of States parties in the Conference. States which are not States parties to the Convention and which accept the invitation to take part in the Review Conference will share in the costs to the extent of their respective rates of assessment under the United Nations scale.

Statements by the secretariat

Rule 17

The Secretary-General or any member of the secretariat designated for that purpose may, subject to rule 20, make either oral or written statements concerning any question under consideration.

CHAPTER V

CONDUCT OF BUSINESS

Quorum

Rule 18

A majority of the States parties to the Convention participating in the Conference shall constitute a quorum.

General powers of the President

Rule 19

1. In addition to exercising the powers conferred upon him elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each such meeting, direct the discussions, accord the right to speak, put questions to the Conference for decision and announce such decisions. He shall rule on points of order and, subject to these rules, have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times the representatives of each participant may speak on a question, the adjournment or closure of the debate, and the suspension or the adjournment of a meeting.

2. The President, in the exercise of his functions, remains under the authority of the Conference.

Points of order

Rule 20

A representative may at any time raise a point of order, which shall be decided upon immediately by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be put to the Conference for decision immediately, and the President's ruling shall stand unless overruled by the Conference. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

SpeechesRule 21

1. No one may address the Conference without having previously obtained the permission of the President, who shall, subject to rules 19 and 20 and 22 to 26, call upon speakers in the order in which they signify their desire to speak.

2. Debate shall be confined to the question before the Conference and the President may call a speaker to order if his remarks are not relevant to the subject under discussion.

3. The Conference may limit the time allowed to speakers and the number of times the representatives of each participant may speak on a question; a motion to set such limit shall be put to the Conference for decision immediately. In any event, the President shall limit interventions on procedural questions to a maximum of five minutes. When the debate is limited and a speaker exceeds the allotted time, the President shall call him to order without delay.

PrecedenceRule 22

The Chairman or another representative of a subsidiary organ may be accorded precedence for the purpose of explaining the conclusions arrived at by that organ.

Closing of the list of speakersRule 23

During the course of a debate the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. When there are no more speakers on the list, the President may declare the debate closed.

Rights of replyRule 24

The right of reply shall be accorded by the President to a representative of a State participating in the Conference who requests it; any other representative may be granted the opportunity to make a reply. Representatives should attempt, in exercising this right, to be as brief as possible and preferably to deliver their statements at the end of the meeting at which this right is requested.

Suspension or adjournment of the meetingRule 25

A representative may at any time move the suspension or the adjournment of the meeting. Such motions shall not be debated but shall be put to the Conference for decision immediately.

Adjournment of debateRule 26

A representative may at any time move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two representatives may speak in favour of and two against the motion, after which it shall be put to the Conference for decision immediately.

Closure of debate

Rule 27

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified a wish to speak. Permission to speak on the closure of the debate shall be accorded only to two speakers opposing the closure, after which the motion shall be put to the Conference for decision immediately.

Order of motions

Rule 28

Subject to rule 19, the following motions shall have precedence in the indicated order over all other proposals or motions before the meeting:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate;
- (d) To close the debate.

Basic proposals

Rule 29

The draft proposals submitted to the Conference by the Group of Governmental Experts to Prepare the Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects¹ shall constitute the basic proposals for consideration by the Conference.

Submission of other proposals and substantive amendments

Rule 30

Other proposals and substantive amendments shall normally be introduced in writing and handed to the Secretary-General of the Conference, who shall circulate copies to all delegations in the languages of the Conference. As a general rule, no proposal shall be discussed or put to a decision unless copies of it have been circulated to all delegations in their respective working languages not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or motions as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day.

Withdrawal of proposals and motions

Rule 31

A proposal or motion may be withdrawn by its sponsor at any time before a decision on it has been taken, provided that it has not been amended. A proposal or motion thus withdrawn may be reintroduced by any representative.

Decisions on competence

Rule 32

Any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal submitted to it shall be decided before the matter is discussed or a decision is taken on the proposal in question.

Reconsideration

Rule 33

When a proposal or motion has been adopted or rejected it may not be reconsidered unless the Conference takes a decision to that effect. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing reconsideration, after which the matter shall be put to the Conference for decision immediately.

CHAPTER VI

DECISION-MAKING

Adoption of decisions

Rule 34

The Conference shall conduct its work and take decisions in accordance with Article 8 of the Convention.

CHAPTER VII

SUBSIDIARY ORGANS

Main Committees

Rule 35

There shall be three Main Committees, which shall receive their assignments from the Conference and report to it.

Drafting Committee

Rule 36

1. There shall be a Drafting Committee composed of representatives of the same States which are represented on the General Committee. It shall coordinate the drafting of and edit all texts referred to it by the Conference or by a Main Committee, without altering the substance of the texts, and report to the Conference or to the Main Committee as appropriate. It shall also, without reopening the substantive discussion on any matter, formulate drafts and give advice on drafting as requested by the Conference or a Main Committee.

2. Representatives of other States may also attend the meetings of the drafting Committee and may participate in its deliberations when matters of particular concern to them are under discussion.

Working groups

Rule 37

The Conference and the Main Committees may establish working groups.

Officers

Rule 38

Each subsidiary organ shall have a chairman, a vice-chairman and such other officers as it considers necessary.

Applicable rules

Rule 39

The rules contained in Chapters II, V and VII shall be applicable, mutatis mutandis, to the proceedings of subsidiary organs, except that:

(a) The chairmen of subsidiary organs may participate in making decisions;

(b) A majority of the representatives on any subsidiary organ of limited membership shall constitute a quorum.

CHAPTER VIII

LANGUAGES AND RECORDS

Languages of the Conference

Rule 40

Arabic, Chinese, English, French, Russian and Spanish shall be the official languages of the Conference.

Interpretation

Rule 41

1. Speeches made in a language of the Conference shall be interpreted into the other such languages.

2. A representative may speak in a language other than a language of the Conference if he provides for interpretation into one such language. Interpretation into the other such languages by interpreters of the secretariat may be based on the interpretation given in the first such language.

Languages of official documents

Rule 42

Official documents and all instruments adopted by the Conference, including its Final Document, shall be made available in the languages of the Conference.

Records and sound recordings of meetings

Rule 43

1. Summary records of the plenary meetings of the Conference shall be prepared and circulated as soon as possible in all the languages of the Conference, to all representatives, who shall inform the secretariat, within five working days after such circulation, of any corrections they wish to have made.

2. The secretariat shall make sound recordings of meetings of the Conference and of the Main Committees. Such recordings shall be made of meetings of other subsidiary organs when the body concerned or the organ that established it so decides.

CHAPTER IX
PUBLIC AND PRIVATE MEETINGS

Plenary and committees

Rule 44

The plenary meetings of the Conference and the meetings of the Main Committees shall be held in public unless the body concerned decides otherwise, for instance for the negotiation of proposals.

Working groups

Rule 45

As a general rule, meetings of other committees and working groups shall be held in private.

CHAPTER X
OTHER PARTICIPANTS AND OBSERVERS

Representatives of Organizations which have
been granted observer status in the United Nations

Rule 46

Representatives designated by any Organization having being granted observer status in the United Nations by a resolution of the General Assembly may participate as observer in the deliberations of the Conference and in its subsidiary organs.

Representatives of United Nations organs, of related
agencies and of other intergovernmental organizations

Rule 47

Representatives designated by organs of the United Nations, by specialized or other related agencies and by other intergovernmental organizations invited to the Conference may participate as observers in its deliberations and in its subsidiary organs.

International Committee of the Red Cross

Rule 48

Representatives designated by the International Committee of the Red Cross may participate as observers in the deliberations of the Conference and in its subsidiary organs in order, in particular, that the Conference may avail itself of the relevant expertise of the International Committee of the Red Cross.

Representatives of non-governmental organizations

Rule 49

1. Non-governmental organizations may designate representatives to attend public meetings of the Conference and its Main Committees and to make available written contributions on matters on which they have a special competence, at their own cost. They will also be entitled upon request to receive the documents of the Conference.

2. Upon the invitation of the presiding officer of the plenary and subject to the approval of that body, representatives of such organizations may make oral statements on questions in which they have a special competence in plenary meetings.

Written statements

Rule 50

Written statements submitted by the designated representatives referred to in rules 45 to 47 shall be distributed by the Secretariat to all delegations in the quantities and in the languages in which the statements are made available to the secretariat for distribution.

CHAPTER XI

AMENDMENT OR SUSPENSION OF THE RULES OF PROCEDURE

Method of amendment

Rule 51

These rules may be amended by a decision of the Conference upon recommendation of the General Committee.

Method of suspension

Rule 52

These rules may be suspended by a decision of the Conference, provided that 24 hours notice of the motion for suspension has been given, which may be waived if no representative objects; subsidiary organs may, by their own decisions, waive rules pertaining to them. Any suspension shall be limited to a specific and stated purpose and to the period required to achieve it.

ANNEX IV

Draft Provisional Agenda for the Review Conference

1. Opening of the Conference by the Chairman of the Group of Governmental Experts to Prepare the Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects
2. Submission of the final report of the Group of Governmental Experts
3. Election of the President
4. Adoption of the Agenda
5. Adoption of the Rules of Procedure
6. Confirmation of the nomination of the Secretary-General of the Conference
7. Election of Vice Presidents of the Review Conference, Chairmen and Vice-Chairmen of the Drafting Committee, the Credentials Committee and the Main Committees
8. Message from the Secretary-General of the United Nations
9. Adoption of arrangements for meeting the costs of the Conference
10. Appointment of the Credentials Committee
11. Organization of work including that of the subsidiary bodies of the Conference
12. General exchange of views (Plenary)
13. Review of the scope and operation of the Convention and its annexed Protocols
14. Consideration of any proposal for the Convention and its existing Protocols
15. Consideration of proposals for additional Protocols to the Convention
16. Report of the Credentials Committee
17. Report of the Main Committees
18. Report of the Drafting Committee
19. Consideration and adoption of the final document(s)
20. Other matters

ANNEX V

Progress Reports of the previous sessions

- (i) First session - 28 February to 9 March 1994:(CCW/CONF.I/GE/4 and Corr.1)
- (ii) Second session - 16 to 27 May 1994: (CCW/CONF.I/GE/8)
- (iii) Third session - 8 to 19 August 1994: (CCW/CONF.I/GE/21)

GROUP OF GOVERNMENTAL EXPERTS TO
PREPARE THE REVIEW CONFERENCE OF THE
STATES PARTIES TO THE CONVENTION ON
PROHIBITIONS OR RESTRICTIONS ON THE
USE OF CERTAIN CONVENTIONAL WEAPONS
WHICH MAY BE DEEMED TO BE EXCESSIVELY
INJURIOUS OR TO HAVE INDISCRIMINATE
EFFECTS

CCW/CONF.I/GE/4
8 March 1994

Original: ENGLISH

First session, Geneva
28 February-4 March 1994

PROGRESS REPORT OF THE GROUP OF GOVERNMENTAL EXPERTS TO
PREPARE THE REVIEW CONFERENCE OF THE STATES PARTIES TO
THE CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE
OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE
EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS

1. The Convention on Prohibitions or Restrictions on the Use of
Certain Conventional Weapons Which May Be Deemed to be Excessively
Injurious or to Have Indiscriminate Effects, under Article 8, 3 (a),
reads, inter alia, as follows:

"If, after a period of ten years following the entry into force
of this Convention, no conference has been convened in
accordance with subparagraph 1 (a) or 2 (a) of this Article,
any High Contracting Party may request the Depositary to
convene a conference to which all High Contracting Parties
shall be invited to review the scope and operation of this
Convention and the Protocols annexed thereto and to consider
any proposal for amendments of this Convention or of the
existing Protocols. States not parties to this Convention
shall be invited as observers to the conference. The
conference may agree upon amendments which shall be adopted and
enter into force in accordance with subparagraph 1 (b) above."

2. On 16 December 1993, the General Assembly adopted resolution
48/79 which, inter alia, read as follows:

"5. Welcomes the request to the Secretary-General to convene
at an appropriate time, if possible in 1994, in accordance with
article 8, paragraph 3, of the Convention, a conference to
review the Convention;

6. Encourages the States parties to request the Secretary-
General to establish as soon as possible a group of
governmental experts to prepare the review conference and
to furnish needed assistance and assure service, including
the preparation of analytical reports that the review
conference and the group of experts might need;

7. Calls upon the maximum number of States to attend the
conference, to which the States parties may invite interested
non-governmental organizations, in particular the International
Committee of the Red Cross."

3. On 22 December 1993, States parties to the Convention submitted
a letter to the Secretary-General of the United Nations, which reads

as follows:

"Pursuant to article 8, paragraph 3a) of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, concluded in Geneva on 10 October 1980, the French government, by letter dated 9 February 1993, requested that at the earliest possible date, as from 2 December 1993, you, in your capacity of depositary of the Convention, convene a conference of the High Contracting Parties to review the provisions of the Convention.

With a view to facilitating preparations for this Conference, the States Parties to the Convention have the honour to request that you establish a group of experts. This group, which would meet firstly in Geneva early in 1994, at a date to be determined, would comprise governmental experts appointed by the States Parties to the Convention. Governmental experts designated by States non Parties to the Convention and representatives of the International Committee of the Red Cross could participate in the work of the group as observers. This group of governmental experts would decide whether representatives of other competent non-governmental organizations or competent individuals should participate as well.

The group of governmental experts will have to establish its rules of procedure, its agenda, its financial arrangements and its program of work. As a matter of priority, it will have to prepare concrete proposals for amendments to Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices for the purpose of :

- strengthening restrictions on the use of anti-personnel mines and, in particular, those without neutralizing or self-destruction mechanisms ;
- considering the establishment of a verification system for the provisions of this Protocol ;
- studying opportunities for broadening the scope of this Protocol to cover armed conflicts that are not of an international character.

Once the group of governmental experts have made significant progress in their efforts to amend Protocol II, the group also could consider any other proposal relating to the Convention and its existing or future Protocol.

In the light of the progress in its work, in particular with regard to Protocol II, the group of experts should :

- recommend, in conjunction with you, the dates and venue of the conference to review the Convention and its Protocols ; and
- determine, in consultation with you, how the Review Conference will be organized and financed.

The group of experts should report to the States Parties before the end of 1994 on the results of its work on amendments to Protocol II of the Convention "

4. Following consultations among States parties, it was initially agreed that the Group of Governmental Experts to Prepare the Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effect would hold three sessions at the United Nations Office at Geneva.

5. The Group of Governmental Experts held its first session at the Palais des Nations, Geneva, from 28 February to 4 March 1994. The following States parties to the Convention participated in the Group: Australia, Austria, Benin, Bulgaria, China, Croatia, Cuba, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, India, Japan, Mexico, Netherlands, Norway, Poland, Russian Federation, Slovakia, Sweden, Switzerland, Tunisia and Ukraine. The following States non-parties to the Convention also participated in the work of the Group as observers: Argentina, Belgium, Canada, Chile, Colombia, Egypt, Ethiopia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Jordan, Malaysia,*/ New Zealand, Oman, Peru, Portugal, Spain, Sri Lanka, Syria, Turkey, United Kingdom and the United States of America. The International Committee of the Red Cross also took part in the work of the Group, pursuant to the invitation issued by the Secretary-General of the United Nations.

6. On behalf of the Secretary-General of the United Nations, Mr. Sohrab Kheradi, Deputy Director of the Centre for Disarmament Affairs, Department of Political Affairs, opened the session of the Group of Governmental Experts and made a statement. Mr. Kheradi also served as Secretary of the Group.

7. At its first meeting, on 28 February 1994, the Group of Experts elected, by acclamation, Mr. Johan Molander of Sweden as Chairman, with the understanding that in his absence Ambassador Lars Norberg of Sweden would act as Chairman at the first session of the Group. When assuming his Chairmanship, the Chairman made a remark on the non-participation of the Federal Republic of Yugoslavia (Serbia-Montenegro).

8. At its third meeting, on 1 March, the Group elected Mr. C. Narain of India and Mr. Peter Poptchev of Bulgaria as Vice-Chairmen.

9. The Group of Experts, at its first meeting on 28 February, adopted its agenda, which will serve the Group during all its sessions, and which reads as follows:

*/At the fifth meeting of the Group of Experts, on 3 March 1994, the representative of Malaysia announced that Malaysia was withdrawing its participation from the work of the Group.

In view of his statement and since Malaysia withdrew before a decision on the financial arrangements was reached, Malaysia would not be requested to bear any costs.

1. Opening of the session
2. Election of the Chairman and other officers
3. Adoption of the Agenda
4. Method of decision-making
5. Consideration of financial arrangements for the Group of Experts
6. Question of participation
7. Organization of work of the Group of Experts
 - (a) Future sessions, calendar of meetings and programme of work
 - (b) Consideration and adoption of progress reports
8. Background documentation
9. General exchange of views
10. Consideration of proposals for and preparation of amendments to Protocol II of the Convention and the adoption of the report of the Group of Experts for submission to the State Parties
11. Consideration of other proposals relating to the Convention and its existing or future Protocol
12. Consideration of organizational matters for the Review Conference
 - (a) Date and duration
 - (b) Draft rules of procedure
 - (c) Provisional agenda
 - (d) Composition of the General Committee
 - (e) Financial arrangements
 - (f) Establishment of subsidiary bodies
 - (g) Participation
 - (h) Background documentation
 - (i) Final document(s)
 - (j) Appointment of a provisional Secretary-General of the Conference
13. Adoption of the final report of the Group of Experts to the Review Conference
14. Other business

10. The Group of Experts decided to take its decisions by consensus. Only experts from States parties to the Convention would participate in decision-making.

11. During the course of its session, the Group of Experts considered the question of financial arrangements for the Group and, in this regard, accepted the estimated costs for the three scheduled sessions as contained in document CCW/CONF.I/GE/2. As a result of intensive consultations among the States parties, the Group decided that the costs of the Group of Experts will be met by the States Parties to the Convention participating in the Group of Experts on the basis of their assessments to the United Nations Regular Budget prorated to take into account the number of States participating in the Group of Experts. States non-parties which take part in the Group of Experts will share the costs to the extent of their respective rates of assessment under the United Nations scale.

12. The Group of Experts also considered the question of participation, including that of the United Nations agencies, specialized and other agencies, non-governmental organizations and competent individuals in the work of the Group, without reaching a conclusion at this session.

13. With regard to its organization of work, the Group decided to hold its second session from 16 to 27 May and the third session from 8 to 19 August 1994, in Geneva. The Group also decided to consider the possibility of holding a fourth session during 1995 in Geneva, with the date and duration to be determined. The Group further agreed to have a progress report prepared at the conclusion of each session, so that decisions or recommendations on organizational matters, as well as recommendations on substantive issues could be properly recorded.

14. At its fifth meeting, on 3 March, the Group considered the question of background documentation and decided that the following background documents should be prepared:

(1) Summary of negotiations leading to the conclusion of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and of subsequent developments related to the Convention, which would be prepared by the Secretariat;

(2) The rationale for amending and the ways and means of improving Protocol II of the Convention, as well as the military and humanitarian perspectives concerning the amendment of Protocol II of the Convention, which would be prepared by the International Committee of the Red Cross:

(3) The rationale for considering other proposals relating to the Convention and its existing or future Protocol, which would be prepared by the International Committee of the Red Cross.

In that connection, it was further decided that those documents would be issued as official documents of the Group of Experts.

15. The Group of Experts held a general exchange of views at its sixth meeting on 3 March 1994.

16. At its eighth meeting, on 4 March 1994, the Group of Experts adopted its progress report for the first session, as contained in document CCW/CONF.I/GE/CRP.1/Rev.1, as orally amended, which is being issued as document CCW/CONF.I/GE/4.

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CCW/CONF.I/GE/4/Corr.1
9 August 1994

Original: ENGLISH

First session
Geneva, 28 February - 4 March 1994

PROGRESS REPORT OF THE GROUP OF GOVERNMENTAL EXPERTS TO
PREPARE THE REVIEW CONFERENCE OF THE STATES PARTIES TO THE
CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF
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Corrigendum

On page 3, paragraph 5, line 10, delete the word "Egypt,".

GROUP OF GOVERNMENTAL EXPERTS
TO PREPARE THE REVIEW CONFERENCE
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DEEMED TO BE EXCESSIVELY INJURIOUS
OR TO HAVE INDISCRIMINATE EFFECTS

CCW/CONF.I/GE/8
27 May 1994

Original: ENGLISH

Second session
Geneva, 16-27 May 1994

PROGRESS REPORT OF THE GROUP OF GOVERNMENTAL EXPERTS TO
PREPARE THE REVIEW CONFERENCE OF THE STATES PARTIES TO
THE CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE
USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE
DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE
INDISCRIMINATE EFFECTS

1. The Group of Governmental Experts to Prepare the Review Conference on the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, held its second session at the Palais des Nations, Geneva, from 16 to 27 May 1994, in accordance with the decision taken at its first session. The Group held 18 meetings during that period under the Chairmanship of Mr. Johan Molander of Sweden. Mr. C. Narain of India and Mr. Peter Poptchev of Bulgaria continued to serve as Vice-chairmen of the Group. Mr. Sohrab Kheradi, Deputy Director of the Centre for Disarmament Affairs, Department of Political Affairs, continued to serve as Secretary of the Group.

2. At the second session of the Group of Governmental Experts, the following States Parties to the Convention participated in the Group: Australia, Austria, Bulgaria, China, Croatia, Cuba, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, India, Japan, Mexico, Netherlands, New Zealand, Norway, Pakistan, Poland, Russian Federation, Slovakia, Sweden, Switzerland and Ukraine. The following States non-parties to the Convention also participated in the work of the Group as observers: Afghanistan, Argentina, Belgium, Canada, Chile, Colombia, Ethiopia, Iran (Islamic Republic of), Ireland, Italy, Kuwait, Myanmar, Nicaragua, Oman, Peru, Portugal, Qatar, Spain, Sri Lanka, Turkey, United Kingdom of Great Britain and Northern Ireland and the United States of America. The International Committee of the Red Cross also took part in the work of the Group, pursuant to the invitation issued by the Secretary-General of the United Nations, the Depositary of the Convention.

3. At its first meeting, on 16 May 1994, the Group of Experts decided to invite the United Nations agencies, specialized and other agencies. Accordingly, the United Nations Department of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees and the United Nations Children's Fund took part in the work of the Group as observers. The Group agreed that the Chairman of the Group of Experts would give periodic briefings to the non-governmental organizations on the work of the Group.

4. At the same meeting, the Group decided to concentrate its efforts on agenda item 10 entitled "Consideration of proposals for and preparation of amendments to Protocol II of the Convention and the adoption of the report of the Group of Experts for submission to the States Parties". At the same time, the Group also decided to keep open agenda item 9 entitled "General exchange of views", so that the substantive consideration of the subject could benefit from such an exchange of views. In this connection, a large number of delegations participated in the exchange of views on item 9. Under this item Sweden introduced the following working papers, respectively entitled "Draft Protocol on Blinding Weapons" (CCW/CONF.I/GE/CRP.3) and "Draft Protocol on Naval Mines" (CCW/CONF.I/GE/CRP.4).

5. In the course of its consideration of agenda item 10 regarding amendments to Protocol II to the Convention, the Group had before it the following documents:

- (1) CCW/CONF.I/GE/3 - "Draft amended protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices (Protocol II)" submitted by France;
- (2) CCW/CONF.I/GE/5 - "Summary of negotiations leading to the conclusion of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and of subsequent developments related to the Convention" prepared by the Secretariat;
- (3) CCW/CONF.I/GE/6 - "The rationale for amending and the ways and means of improving Protocol II of the Convention as well as the military and humanitarian perspectives concerning the amendment of Protocol II of the Convention" prepared by the International Committee of the Red Cross;
- (4) CCW/CONF.I/GE/7 - Communication received from the Republic of Argentina on a Moratorium;

- (5) CCW/CONF.I/GE/CRP.2 - "Chairman's Rolling Text" prepared by the Chairman;
- (6) CCW/CONF.I/GE/CRP.5 - "Non-paper on the scope of application" submitted by Germany;
- (7) CCW/CONF.I/GE/CRP.6 - "Non-paper on definitions" submitted by Germany;
- (8) CCW/CONF.I/GE/CRP.7 - "The question of mines in the Review Conference of the Conventional Weapons Convention: discussion paper" submitted by the Netherlands;
- (9) CCW/CONF.I/GE/CRP.8 - "Non-paper on the structure of clusters 3 (restrictions and prohibitions) and 4 (verification)" submitted by Germany;
- (10) CCW/CONF.I/GE/CRP.9 - "Non-paper on cluster 3 (prohibitions and restrictions)" submitted by Germany;
- (11) CCW/CONF.I/GE/CRP.10 - "Article 4 - Specific restrictions on the use of mines, booby-traps and other devices" submitted by Denmark and the United States;
- (12) CCW/CONF.I/GE/CRP.10/Rev.1 - "Article 4 - Specific restrictions on the use of mines, [booby-traps] and other devices" submitted by Denmark and the United States;
- (13) CCW/CONF.I/GE/CRP.11 - "Protocol II - New Article - Transfers" submitted by Australia;
- (14) CCW/CONF.I/GE/CRP.11/Rev.1 - "Protocol II - New Article - Transfers" submitted by Australia, the Netherlands and Sweden;
- (15) CCW/CONF.I/GE/CRP.12 - "Main Convention - New Article - Grave Breaches" submitted by Australia and Sweden;
- (16) CCW/CONF.I/GE/CRP.13 - "Main Convention - New Article - Implementation Procedures; Protocol II - New Article - Verification Commission" proposed by Australia;
- (17) CCW/CONF.I/GE/CRP.14 - "Working Paper" presented by Bulgaria;

- (18) CCW/CONF.I/GE/CRP.15 - "Convention - Article 5 - Entry into Force; Article 9 - Denunciation and Protocol II - Article 6 - Prohibition on the use of certain booby-traps " submitted by the Russian Federation;
- (19) CCW/CONF.I/GE/CRP.17 - "Non-paper on the Technical Annex to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices (Protocol II)" submitted by Germany;
- (20) CCW/CONF.I/GE/CRP.18 - "Article 8" submitted by Austria;
- (21) CCW/CONF.I/GE/CRP.19 - "Article 3" submitted by Mexico;
- (22) CCW/CONF.I/GE/CRP.20 - "Protocol II - New Article - Reports" submitted by Australia;
- (23) CCW/CONF.I/GE/CRP.21 - "Discussion paper - Scope" submitted by Australia on behalf of a Contact Group;
- (24) CCW/CONF.I/GE/CRP.22 - "Non-paper on definitions" submitted by India on behalf of the Consultation Group of Experts;
- (25) CCW/CONF.I/GE/CRP.23 - "Discussion paper on booby-traps and other devices" submitted by Australia;
- (26) CCW/CONF.I/GE/CRP.24 - "Proposals on prohibitions and restrictions" submitted by the International Committee of the Red Cross.

In addition, a large number of informal working papers were submitted by delegations during the course of deliberations on the subject.

6. At the outset, the Group decided to consider various proposals to amend Protocol II to the Convention regarding prohibitions and restrictions on mines, booby-traps and other devices on the basis of the rolling text submitted by the Chairman (CCW/CONF.I/GE/CRP.2). Upon the proposal of the Chairman, the Group agreed to consider the subject within the framework of the following clusters of issues: (1) scope of application; (2) definitions; (3) prohibitions and restrictions; and (4) verification, fact-finding and compliance.

7. With respect to Article 1, the "scope of application", the Group of Experts considered the question of extension of the present scope of the Protocol to include also armed

conflicts not of an international character. Many delegations spoke in favour of the need for such an extension, but questions were raised with regard to the following issues: (1) feasibility of application; (2) implication concerning legal status of the parties to armed conflicts; (3) potential hinderance to universality of the Convention; and (4) the appropriateness of placing this article in the Protocol or the Convention itself. With the view to harmonizing those views, the Chairman, with the consent of the Group, designated Mr. Christopher Lamb, representative of Australia, to conduct informal consultations on the question of scope of application in this Protocol. Document CCW/CONF.I/GE/CRP.21, which contains the outcome of the consultations, foreshadowed further work at the next session on the methodology and language to be used.

8. On the question of amendment to Article 2 regarding definitions in the present Protocol II to the Convention, a large number of proposals were submitted to the Group for consideration. In order to facilitate the work of the Group, several informal consultations were held under the Chairmanship of Mr. C. Narain of India, Vice-Chairman of the Group of Experts, with the aim of narrowing the field of possible alternatives on definitions in the Protocol including: "mine", "remotely delivered mine", "anti-personnel mine", "scatterable mine", "booby-trap", "other device", "military objective", "civilian objects", "minefield", "recording", "destruction mechanism", "neutralizing mechanism", "self destruction", "self neutralization", "passive self deactivation", "remote control", "locating mechanism" and "anti-handling device". Document CCW/CONF.I/GE/CRP.22 contains the outcome of those consultations and provides a basis for future work on Article 2.

9. With regard to "prohibitions and restrictions", the Group of Experts considered the following issues: (1) general restrictions on land mines, booby-traps and other devices; (2) specific restrictions on certain land mines, booby-traps and other devices; (3) specific prohibition of certain types of mines and booby-traps. Further work remains to be done on these issues at the next session.

10. Concerning "verification, fact-finding and compliance", it is generally recognized by the Group that the question of verification would need to be discussed further in depth. A number of issues in this connection were raised by delegations, particularly with respect to the scope and extent of verification and fact-finding as well as the ways and means for promoting and enforcing compliance.

CCW/CONF.I/GE/23
page 58

CCW/CONF.I/GE/8
page 6

11. At its last meeting, on 27 May 1994, the Group of Experts considered and adopted its draft progress report for the second session, as contained in document CCW/CONF.I/GE/CRP.16, as orally amended, which is being issued as document CCW/CONF.I/GE/8.

GROUP OF GOVERNMENTAL EXPERTS
TO PREPARE THE REVIEW CONFERENCE
OF THE STATES PARTIES TO THE
CONVENTION ON PROHIBITIONS OR
RESTRICTIONS ON THE USE OF CERTAIN
CONVENTIONAL WEAPONS WHICH MAY BE
DEEMED TO BE EXCESSIVELY INJURIOUS
OR TO HAVE INDISCRIMINATE EFFECTS

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PROGRESS REPORT OF THE GROUP OF GOVERNMENTAL EXPERTS TO
PREPARE THE REVIEW CONFERENCE OF THE STATES PARTIES TO
THE CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE
USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE
DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE
INDISCRIMINATE EFFECTS

1. The Group of Governmental Experts to Prepare the Review Conference of the States parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, held its third session at the Palais des Nations, Geneva, from 8 to 19 August 1994, in accordance with the decision taken at its first session. The Group held 15 plenary meetings during that period under the Chairmanship of Mr. Johan Molander of Sweden. Mr. C. Narain of India and Mr. Peter Poptchev of Bulgaria continued to serve as Vice-Chairmen of the Group. Mr. Sohrab Kheradi, Deputy Director of the Centre for Disarmament Affairs, Department of Political Affairs, continued to serve as Secretary of the Group.

2. At the third session of the Group of Governmental Experts, the following States parties to the Convention participated in the work of the Group: Australia, Austria, Bulgaria, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, India, Japan, Latvia, Mexico, Netherlands, New Zealand, Norway, Pakistan, Poland, Russian Federation, Slovakia, Slovenia, Spain, Sweden and Switzerland. The following States non-parties to the Convention also participated in the work of the Group as observers: Afghanistan, Argentina, Belgium, Cambodia, Canada, Chile, Colombia, Egypt, Estonia, Iran (Islamic Republic of), Ireland, Israel, Italy, Morocco, Nicaragua, Oman, South Africa, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland and the United States of America. The International Committee of the Red Cross took part in the work

of the Group, pursuant to the invitation issued by the Secretary-General of the United Nations, the Depositary of the Convention. The United Nations Department of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees and the United Nations Children's Fund also took part in the work of the Group as observers. The Group of Experts agreed that agenda item 6 regarding the question of participation was still open and the Chairman of the Group would give periodic briefings to the non-governmental organizations on the work of the Group, pending a solution to the outstanding issues under that item.

3. The Group continued to concentrate its efforts on agenda item 10 entitled "Consideration of proposals for and preparation of amendments to Protocol II of the Convention and the adoption of the report of the Group of Experts for submission to the States Parties". At the same time, the Group also decided to keep open agenda item 9 entitled "General exchange of views", so that the substantive consideration of the issues before the Group could benefit from such an exchange of views. In this connection, a large number of delegations participated in the exchange of views.

4. In the course of its consideration of agenda item 10 regarding amendments to Protocol II to the Convention, the Group had before it the following documents:

- (1) CCW/CONF.I/GE/3 - "Draft amended protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices (Protocol II)" submitted by France;
- (2) CCW/CONF.I/GE/5 - "Summary of negotiations leading to the conclusion of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and of subsequent developments related to the Convention" prepared by the Secretariat;
- (3) CCW/CONF.I/GE/6 - "The rationale for amending and the ways and means of improving Protocol II of the Convention as well as the military and humanitarian perspectives concerning the amendment of Protocol II of the Convention" prepared by the International Committee of the Red Cross;
- (4) CCW/CONF.I/GE/7 - Communication received from the Republic of Argentina on a Moratorium;
- (5) CCW/CONF.I/GE/10 - Proposal by Sweden on Article 6;
- (6) CCW/CONF.I/GE/13 - A speech by the Deputy Minister of Defence of South Africa;
- (7) CCW/CONF.I/GE/18 - "Commission of States parties" proposed by the Russian Federation;
- (8) CCW/CONF.I/GE/19 - Official communication received from Israel;

- (9) CCW/CONF.I/GE/20 - "Prohibitions and restrictions" proposed by the Russian Federation;
- (10) CCW/CONF.I/GE/CRP.2 - "Chairman's Rolling Text" prepared by the Chairman;
- (11) CCW/CONF.I/GE/CRP.2/Rev.1 - "Chairman's Rolling Text" prepared by the Chairman;
- (12) CCW/CONF.I/GE/CRP.5 - "Non-paper on the scope of application" submitted by Germany;
- (13) CCW/CONF.I/GE/CRP.6 - "Non-paper on definitions" submitted by Germany;
- (14) CCW/CONF.I/GE/CRP.7 - "The question of mines in the Review Conference of the Conventional Weapons Convention: discussion paper" submitted by the Netherlands;
- (15) CCW/CONF.I/GE/CRP.8 - "Non-paper on the structure of clusters 3 (restrictions and prohibitions) and 4 (verification)" submitted by Germany;
- (16) CCW/CONF.I/GE/CRP.9 - "Non-paper on cluster 3 (prohibitions and restrictions)" submitted by Germany;
- (17) CCW/CONF.I/GE/CRP.10 - "Article 4 - Specific restrictions on the use of mines, booby-traps and other devices" submitted by Denmark and the United States;
- (18) CCW/CONF.I/GE/CRP.10/Rev.1 - "Article 4 - Specific restrictions on the use of mines, [booby-traps] and other devices" submitted by Denmark and the United States;
- (19) CCW/CONF.I/GE/CRP.11 - "Protocol II - New Article - Transfers" submitted by Australia;
- (20) CCW/CONF.I/GE/CRP.11/Rev.1 - "Protocol II - New Article - Transfers" submitted by Australia, the Netherlands and Sweden;
- (21) CCW/CONF.I/GE/CRP.12 - "Main Convention - New Article - Grave Breaches" submitted by Australia and Sweden;
- (22) CCW/CONF.I/GE/CRP.13 - "Main Convention - New Article - Implementation Procedures; Protocol II - New Article - Verification Commission" proposed by Australia;
- (23) CCW/CONF.I/GE/CRP.14 - "Working Paper" presented by Bulgaria;
- (24) CCW/CONF.I/GE/CRP.15 - "Convention - Article 5 - Entry into Force; Article 9 - Denunciation and Protocol II - Article 6 - Prohibition on the use of certain mines" submitted by the Russian Federation;

- (25) CCW/CONF.I/GE/CRP.17 - "Non-paper on the Technical Annex to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices (Protocol II)" submitted by Germany;
- (26) CCW/CONF.I/GE/CRP.18 - "Article 8" proposed by Austria;
- (27) CCW/CONF.I/GE/CRP.19 - "Article 3" submitted by Mexico;
- (28) CCW/CONF.I/GE/CRP.20 - "Protocol II - New Article - Reports" submitted by Australia;
- (29) CCW/CONF.I/GE/CRP.21 - "Discussion paper - Scope" submitted by Australia on behalf of a Contact Group;
- (30) CCW/CONF.I/GE/CRP.22 - "Non-paper on definitions" submitted by India on behalf of the Consultation Group of Experts;
- (31) CCW/CONF.I/GE/CRP.23 - "Discussion paper on booby-traps and other devices" submitted by Australia;
- (32) CCW/CONF.I/GE/CRP.24 - "Proposals on prohibitions and restrictions" submitted by the International Committee of the Red Cross;
- (33) CCW/CONF.I/GE/CRP.25 - "Verification and compliance" proposed by France and Germany;
- (34) CCW/CONF.I/GE/CRP.26 - "Technical Annex to Protocol II" Working paper submitted by France;
- (35) CCW/CONF.I/GE/CRP.27 - "Verification and compliance" proposed by Finland;
- (36) CCW/CONF.I/GE/CRP.29 - "Protocol on anti-personnel landmines" proposed by Estonia;
- (37) CCW/CONF.I/GE/CRP.31 - "New Article 9 A - Provisioning of Technical Assistance to the States parties" - proposed by Pakistan, co-sponsored by China, Cuba and Iran (Islamic Republic of);
- (38) CCW/CONF.I/GE/CRP.32 and Corr.1 (English only) - "Verification and Compliance" joint proposal by China, Cuba, Iran (Islamic Republic of) and Pakistan;
- (39) CCW/CONF.I/GE/CRP.33 - "Proposal on Article 9 - Technological cooperation and assistance" submitted by Cuba, Iran (Islamic Republic of) and Pakistan;
- (40) CCW/CONF.I/GE/CRP.34 - "Article 8 - Protection of forces, missions, agencies and other bodies under the authority of the United Nations, of regional arrangements (agencies) acting under Chapter VIII of the United Nations Charter and of the International Committee of the Red Cross from the effects of minefields, mines, booby-traps and other devices" proposed by Austria;

- (41) CCW/CONF.I/GE/CRP.35 - "Article ... - Commission of States parties" proposed by the Russian Federation;
- (42) CCW/CONF.I/GE/CRP.36 - Working paper on "Article 3 - General restrictions on the use of mines, booby-traps, and other devices" jointly submitted by Denmark, Germany and the United States of America;
- (43) CCW/CONF.I/GE/CRP.38 - "Protocol II - New article on transfers" proposed by Australia, Denmark, Ireland, The Netherlands, New Zealand, Norway, South Africa, Sweden and Switzerland;
- (44) CCW/CONF.I/GE/CRP.39 - "Technical Annex Provisions" submitted by the United States;
- (45) CCW/CONF.I/GE/CRP.40 - "Article 4, paragraph 2" proposed by Denmark and the United States of America.

In addition, a large number of informal working papers were submitted by delegations during the course of deliberations on the subject.

5. The Group continued to consider various proposals to amend Protocol II to the Convention regarding prohibitions and restrictions on mines, booby-traps and other devices on the basis of the revised rolling text submitted by the Chairman (CCW/CONF.I/GE/CRP.2/Rev.1). Upon the proposal of the Chairman, the Group agreed to set up various working groups to consider the subject within the framework of the following clusters of issues: (1) scope of application; (2) definitions; (3) prohibitions and restrictions; and (4) verification, fact-finding and compliance.

6. Working Group I on "Prohibitions and Restrictions" and Technical Military Experts Group on "Definitions and Technical Annexes" held five and two meetings respectively under the Chairmanship of Mr. C. Narain of India from 9 to 17 August, assisted by Mr. Lin Kuo-Chung of the Centre for Disarmament Affairs. Working Group I concentrated its efforts on the deliberations of amendments to Articles 3-9 as well as possible new articles to the Protocol. The Technical Military Experts Group devoted its efforts on Article 2 and Technical Annexes to Protocol II. In the course of deliberations, various proposals were submitted. During this period, the Chairman of the Working Group also conducted informal consultations on those issues.

7. Working Group II on "Verification and fact-finding" held two meetings under the Chairmanship of Mr. Johan Molander, Chairman of the Group of Experts, assisted by Mr. Sohrab Kheradi, Secretary of the Group of Experts. The Working Group had extensive discussions on all aspects relating to the question of a possible verification system and fact-finding missions with a view to elaborating possible new articles to be added to Protocol II. In the course of the deliberations a number of proposals were put forward and intensive informal consultations were conducted by the Chairman. Alternative proposals for verification and compliance were elaborated and considered. There is no consensus on the principle of establishing a verification system for the purpose of this Protocol or Convention.

8. On 17 August the Secretary of the Group of Experts stated, inter alia, that the CCW Convention is a multilateral instrument binding States parties and hence, no aspect related to its implementation, including those related to any fact-finding mission and/or Verification Commission or other mechanisms that would be part of the Convention or its Protocols, would have any financial implications as far as the United Nations budget is concerned.

9. Working Group III on "Scope of application" and Working Group IV on "Compliance" held two meetings and one meeting respectively, under the chairmanship of Mr. Peter Poptchev of Bulgaria from 10 to 16 August, assisted by Mr. Francesco Cottafavi of the Centre for Disarmament Affairs. Working Group III had intensive deliberations on the possible extension of the scope of application beyond the present one to include also armed conflicts not of an international character. Various proposals were put forward on the issue. Intensive informal consultations were also held by the Chairman of the Working Group on the question of scope but there was no consensus on the principle of extending the scope of the Protocol to armed conflicts not of an international character.

10. Working Group IV had extensive discussions on several issues related to the question of compliance with the provisions of the Protocol. Subsequently, various proposals were put forward on the issue.

11. On the basis of the deliberations in the various working groups, the Group of Governmental Experts, upon the proposal of the Chairman, agreed to elaborate an integrated draft text of amendments to Protocol II in the plenary meetings during the period 16 to 18 August. The revised and integrated draft text of amendments to the Protocol II of the Convention is contained in the new version of the Chairman's rolling text (CCW/CONF.I/GE/CRP.2/Rev.2) as annexed to the present report.

12. On 15 August, the Group of Governmental Experts began a preliminary exchange of views on agenda item 11 entitled "Consideration of other proposals relating to the Convention and its existing or future Protocol". A number of delegations made statements or introduced their proposals on blinding weapons, naval mines and small calibre weapon systems. One delegation also addressed the issue of an amendment to the Convention to provide for more frequent meetings of the States parties. A general exchange of views took place without prejudice as to whether the proposals would ultimately result in new protocols. The Group had before it for its consideration, the following documents under agenda item 11:

- (1) CCW/CONF.I/GE/9 - Background documentation entitled "The rationale for considering other proposals relating to the convention and to its existing or future protocols" prepared by the International Committee of the Red Cross;
- (2) CCW/CONF.I/GE/11 - "Draft Protocol on Blinding Weapons" - submitted by Sweden;
- (3) CCW/CONF.I/GE/12 - "Draft Protocol on Naval Mines" submitted by Sweden;

- (4) CCW/CONF.I/GE/14 and Corr.1 - "Blinding weapons: explanatory memorandum to the proposal for a prohibition" submitted by Sweden;
- (5) CCW/CONF.I/GE/15 - "Small calibre weapon system: Assistance in Wound Ballistics Research and Testing" submitted by Switzerland;
- (6) CCW/CONF.I/GE/16 - "Draft Protocol on small calibre weapon systems" submitted by Switzerland;
- (7) CCW/CONF.I/GE/CRP.28 - "Draft Protocol on blinding weapons" submitted by the International Committee of the Red Cross;
- (8) CCW/CONF.I/GE/CRP.30 - "Draft Protocol on naval mines" submitted by France.

13. The Group of Governmental Experts decided, on 18 August, to hold an additional session in Geneva from 9 to 20 January 1995. In this connection, the Group adopted the estimated costs for the fourth session as contained in document CCW/CONF.I/GE/17.

14. The Group further took up for consideration agenda item 12(a) regarding the question of date and duration for the Review Conference. On 18 August, the Group decided to hold the Review Conference in Geneva within the time-frame 25 September - 13 October 1995. The exact duration will be decided at the fourth session of the Group of Governmental Experts. At its final meeting on 19 August 1994, the Group of Governmental Experts to prepare the Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects decided to nominate the President of the CCW Review Conference at the January 1995 session of the Group of Governmental Experts and then consider the recommendation of Mr. Molander, the present Chairman of the Group.

15. At its final plenary meeting, on 19 August 1994, the Group of Experts considered and adopted its draft progress report for the third session, as contained in document CCW/CONF.I/GE/CRP.37, as orally amended, which is to be issued as document CCW/CONF.I/GE/21.

16. The last paragraph of the letter of States parties to the Convention submitted to the Secretary-General of the United Nations, dated 22 December 1993, states: "The Group of Experts should report to the States parties before the end of 1994 on the results of its work on amendments to Protocol II of the Convention". Pursuant to that request, the Group of Experts decided to submit to the States parties its progress reports as contained in documents CCW/CONF.I/GE/4, CCW/CONF.I/GE/8 and CCW/CONF.I/GE/21 and to request the Secretariat to take appropriate action concerning this matter.

Annex

CHAIRMAN'S ROLLING TEXT

Explanatory note by the Chairman

The enclosed revised version of the Chairman's Rolling Text (CCW/CONF.I/GE/CRP.2/Rev.2) reflects the view of the Chairman of the Group of Governmental Experts on the present state of negotiations on amendments to Protocol II of the Convention. The revised text will hopefully facilitate consideration of existing proposals in capitals, and will form the basis for the deliberations of the Group of Governmental Experts at its fourth session on 9-20 January 1995.

The text is made up of three parts. The first part reflects the current state of negotiations on articles 1 to 9. It also includes the new subject areas of "Transfers" and "Technological Cooperation and Assistance". At this stage views vary as to the appropriateness of including these subject areas into the body of Protocol II.

Appendix I contains the proposed texts on verification and compliance. These texts do not, at the present stage, commit any delegation, as there is no consensus on the addition of a verification regime to Protocol II.

Appendix II contains proposals relating to the subject matter of Protocol II but which have been submitted in relation to the Main Convention.

Article 1

[Material] Scope of Application

1. This Protocol relates to the [use] [emplacement] on land of the mines, booby-traps and other devices defined herein, 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.

[2. This Protocol shall apply in the situations referred to in Article 2 [and 3] and common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and [in Article 1 of Additional Protocol II to the Geneva Conventions of 12 August 1949.] [and in conformity with the international obligations of the parties concerned].

3. In the case of conflicts referred to in [Article 1 of Additional Protocol II] that take place in the territory of a High Contracting Party that has accepted this Protocol, the dissident armed groups referred to in [that article] shall specifically be bound to apply the prohibitions and restrictions of this Protocol on the same basis.

4. When one or more of the parties to a conflict are not bound by this Protocol, the parties to the conflict which are bound by the Protocol shall remain bound thereby in their mutual relations. [Any party to a conflict

shall be bound by this Protocol in relation to any other party to the conflict which is not bound by the Protocol, if the latter accepts and applies the Protocol].

5. The application of the provisions of this Protocol to parties to a conflict which are not High Contracting Parties that have accepted this Protocol shall not change their legal status or the legal status of a disputed territory, either explicitly or implicitly.]

Note: Some delegations support the view that the issue of scope should be addressed in the Convention, rather than in the Protocol.

Note: There is no consensus on the principle of extending the scope of the Protocol to conflicts not of an international character.

Article 2

Definitions

For the purpose of this protocol:

1. "Mine" means a munition placed under, on or near the ground or other surface area and designed to be exploded by the presence, proximity or contact of a person or vehicle.

and "Remotely-delivered mine" means a mine not directly emplaced but delivered by artillery, missile, rocket, mortar, or similar means, or dropped from an aircraft. 1/

and "Anti-personnel mine" means a mine designed to [be exploded by the presence, proximity or contact of a person and that will] incapacitate, injure or kill one or more persons.

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.

1/ It was suggested that further consideration should be given to the definition of "remotely-delivered mine".

5. "Civilian objects" are all objects which are not military objectives as defined in paragraph 4.

6. "Minefield" is an area in which mines have been emplaced.

and "Mined area" is an area which is dangerous due to the presence [or suspected presence] of mines.

7. "Recording" means 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 minefields, mines, booby-traps and other devices.

8. "Self destruction mechanism" means an incorporated automatically functioning mechanism which secures the destruction of a munition.

and "Self neutralizing mechanism" means an incorporated automatically functioning mechanism which renders a munition inoperable.

[and "Self deactivation" means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component that is essential to the operation of the munition.]

[and "Remote control" means a control by commands from a distance.]

[9. "Anti-handling device" means a device by which a mine will explode when an attempt is made to remove, neutralize or destroy the mine.]

or ["Anti-handling device" means a device to protect a munition against removal.]

Article 3

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. Each State party or party to a conflict is, in accordance with the provisions of this Protocol, responsible for all mines, [booby-traps,] and other devices employed by it [and undertakes to clear, remove or destroy them at the end of active hostilities or as specified in Article 9 of this Protocol].

3. It is prohibited in all 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.

4. 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.

[5. Several clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects cannot be treated as a single military objective.]

6. All feasible precautions shall be taken to protect civilians from the effects of weapons to which this Article applies. 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. These circumstances include, but are not limited to:

- (a) the short and long term effect of landmines upon the local civilian population for the duration of the minefield;
- (b) possible measures to protect civilians (e.g. fencing, signs, warning and monitoring);
- (c) the availability and feasibility of using alternatives; and
- (d) the short and long-term military requirements for a minefield.

7. Effective advance warning shall be given of any emplacement of mines, [booby-traps] and other devices which may affect the civilian population, [unless circumstances do not permit].

[8. Restrictions and prohibitions in this protocol shall facilitate the ultimate goal of a complete ban on the production, stockpiling, use and trade of anti-personnel landmines.]

Article 4

[Specific] restrictions on the use of mines [other than remotely delivered mines], [booby-traps] and other devices

1. This Article applies to:

- (a) mines [other than remotely delivered mines];
- (b) [booby-traps;] and

(c) other devices.

[2. Unless combat between ground forces is taking place or appears to be imminent, weapons to which this article applies

(a) must be placed within a perimeter-marked area. The marking must be visible and distinct, and of a kind which cannot be accidentally removed. The perimeter-marked area must be protected by fencing or other means, and monitored by military personnel; and

(b) must, before abandonment, be cleared or turned over to allied or coalition forces that accept responsibility for maintenance of the protections required by the provisions of this Article and for subsequent destruction or recovery of the mines and other devices placed within it.]

[2.(a) [Anti-personnel] mines, booby-traps and other devices [without a combination of (1)] a self-destruction [or a self-neutralizing] mechanism, and (2) [self-deactivation] may be used only if:

1. They are placed within a perimeter-marked [border] area and protected by fencing or other means to effectively exclude civilians from the area. The marking must at least be visible to a person who is about to enter the perimeter-marked area. The marking must be of a distinct and durable character. The area must be continuously monitored by military personnel; and 1/

2. They are cleared before leaving the area, unless that area is turned over to allied or coalition forces that accept responsibility for maintenance and subsequent clearance (i.e., removal or destruction) of those weapons.

3. A party to the conflict is relieved from further compliance with the provisions of Subparagraphs 2 (a) and 2 (b) above only if such compliance is unfeasible due to forcible loss of control of the area as a result of enemy military action. If the party to the conflict regains control of the area, it shall resume compliance with the provisions of the Subparagraphs.]

[3][4]. If the forces of a party gain control of an area in which [[anti-personnel] mines, [booby-traps] and other devices] [weapons to which

1/ It was also suggested that Article 1, paragraph 2 (a) 1 should read as follows:

2. "Mines, [booby-traps,] and other devices that are not self-destructing [or self-neutralizing] may be used only if:

(a) They are placed within a party's own territory from which its civilian population has been effectively evacuated, or, within a perimeter-marked area, in which case they shall be protected by fencing or other means to effectively exclude civilians from the area. The marking must be visible, distinct and durable. The marked area must be continuously monitored by military personnel; and"

this Article applies] have been laid, such forces shall [to the maximum extent possible] maintain the [existing] protections required by this Article until such weapons have been cleared.

[4][5]. [Mines, booby-traps and other devices shall comply with the minimum standards for reliability design and construction contained in the Technical Annex.]

[5][6]. [The intentional removal, defacement, destruction or concealment, [by persons not under the command of a party,] of any device, system or material used to establish the perimeter of a perimeter-marked minefield, except following the clearance of the minefield, shall be prohibited.]

[6][7]. [To facilitate clearance, all [anti-personnel] mines, [booby-traps,] and other devices must be [easily] [readily] detectable using widely-available equipment, such as electronic mine detectors [in accordance with the Technical Annex]. No [anti-personnel] mines, [booby-traps,] and other devices may be designed such that they will detonate by the operation of standard mine-sensing devices.] 2/

Article 5

[Specific] restrictions on the use of remotely delivered mines:

1. The use of remotely delivered mines is prohibited unless [they possess either a 'self neutralizing' or a 'self destruction' mechanism [which should be capable of self-deactivation] [in accordance with the Technical Annex]; and
- [2. All remotely-delivered mines shall comply with the standards for armed period, reliability, design and construction contained in the Technical Annex.]

Article 6

Prohibitions [on the use of] [regarding] [certain]
[mines] booby-traps and other devices

1. Without prejudice to the rules of international law applicable in armed conflict relating to treachery and perfidy, it is prohibited in all circumstances to use booby-traps and other devices which are in any way attached to or associated with:

- (a) internationally recognized protective emblems, signs or signals;
- (b) sick, wounded or dead persons;
- (c) burial or cremation sites or graves;

2/ Views were expressed to the effect that this paragraph should be moved to Article 6 or Article 9.

(d) medical facilities, medical equipment, medical supplies or medical transportation;

(e) children's toys or other portable objects or products specially designed for feeding, health, hygiene, clothing or education of children;

(f) food or drink;

(g) kitchen utensils or appliances except in military establishments, military locations or military supply depots;

(h) objects clearly of a religious nature;

(i) historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;

(j) animals or their carcasses.

[2. The [manufacture, stockpiling,] use [and transfer] of booby-traps in the form of apparently harmless portable objects is prohibited.]

3. It is prohibited in all circumstances to use any [mine,] booby-trap [or other device] which is designed to cause superfluous injury or unnecessary suffering.

[4. It is prohibited to use [,manufacture, stockpile, or transfer] [anti-personnel] mines which cannot be detected, that is, which cannot be identified using widely available equipment such as electromagnetic mine detectors [as specified in the Technical Annex].

[5. The States parties shall notify the Depositary of all stockpiles of weapons to which this Article applies and undertake to destroy them within a period of .. years. The States shall report annually on the progress made regarding implementation of paragraphs 2 and 4 of this Article.]

Article 6 bis

[Prohibition of the use, development, manufacture, stockpiling and transfer of certain mines and booby-traps]

[1. It is prohibited to use, develop, manufacture, stockpile or transfer, directly or indirectly:

- Anti-personnel mines defined in Article 2, [paragraph 1] of this Protocol; and]
- [Anti-personnel mines without self-destruction or self-neutralizing mechanisms]
- [- Booby-traps defined in Article 2, [paragraph 2] of this Protocol.

2. The States parties undertake to destroy the weapons to which this article applies and which are in their ownership and/or possession.]

[Article 6 ter]

[Transfers]

[The States parties undertake, as a preventive measure, not to transfer any land mines, booby-traps and other devices to a country or countries the territory of which is [or could become] the subject of armed conflict whose humanitarian consequences, due to the abuse of the employment of land mines in contravention to the relevant articles of this Protocol, could be considered to be of grave proportions.

The implementation of this undertaking shall, in all cases, be preceded by monitoring and consultations (within the framework of the International Verification Commission to be established under the revised Convention) and may be carried out either by virtue of this Protocol or in response to a respective decision by the United Nations Security Council.

This specific non-transfer obligation of the States parties shall in no way interfere with or prejudice any other arrangement regulating the international trade and transfer of land mines and relevant equipment the States parties might participate in.

Explanatory note:

The placement of this new text in a revised Protocol II will depend on the development of the conceptual discussion in the Group concerning the division or fusion on the "use" and the "production and transfer" issues.]

- [1. It is prohibited to transfer any weapon defined in Article 2 of this Protocol to entities which are not States;
2. States parties undertake not to transfer any weapon defined in Article 2 of this Protocol to States which are not bound by this Protocol;
3. States parties undertake not to transfer to other States parties any weapon defined in Article 2 of this Protocol of which the use is prohibited in all circumstances;
4. States parties shall exercise restraint in transferring to other States parties any weapon defined in Article 2 of this Protocol of which the use is restricted.]

Article 7

Recording and publication of the location of minefields, mined areas, mines, [booby-traps] and other devices and all relevant information

1. The parties to a conflict shall record the location of all minefields, mined areas, [booby-traps] and other devices laid by them. The recording shall be done in accordance with the Technical Annex.

2. All such records shall be retained by the parties, who shall:

(a) immediately after [the cessation of active hostilities] [the effective cessation of hostilities and the meaningful withdrawal of forces from the combat zone]:

- (i) Take all necessary and appropriate measures, including the use of such records, to protect civilians from the effects of the minefields, mines, [booby-traps] and other devices;
- (ii) Make available to each other and to the Secretary-General of the United Nations all information in their possession concerning the location of the minefields, mines, [booby-traps] and other devices in the zone of conflict;

(b) When a United Nations force or mission performs these functions in any area, make available to the authority mentioned in Article 8 such information as is required by that article; 1/

[(c) Provide for the release of information concerning the location of the minefields, mines, [booby-traps] and other devices, particularly in agreements covering the cessation of hostilities;]

(d) Make available to each other all information concerning the date of neutralization or destruction of mines equipped with either a neutralizing mechanism [or process] or a destruction mechanism [or process] as defined in paragraphs 8 and 9 of article 2 of this Protocol;

(e) Make available to each other all relevant technical information, in particular concerning the detection and location of the mines, [booby-traps] and other devices, which can be used for purposes of clearance.

1/ It was suggested that the wording of subparagraph 2 (b) should be revised in the light of the final text of Article 8.

Article 8

Protection of [forces, missions, agencies and other bodies under the authority of the United Nations, of regional arrangements (agencies) 1/ acting under Chapter VIII of the United Nations Charter] [and of the International Committee of the Red Cross] from the effects of minefields, mines, booby-traps and other devices 2/

1. When a [force, mission, agency or other body under the authority either of the United Nations or of a regional arrangement (agency) acting under Chapter VIII of the United Nations Charter [or any other organization providing relief action undertaken subject to the agreement of the parties concerned in such relief action,] performs functions of peace-keeping, observation, humanitarian assistance or similar functions] in any area, each party to the conflict shall, if requested by the respective head of the force, mission, [agency or other body] in that area [and in accordance with the United Nations Charter]:

(a) remove or render harmless all mines, [booby-traps] and other devices in that area,

(b) take such measures as may be necessary to protect the [force, mission, agency or other body] from the effects of minefields, mined areas, mines, [booby-traps] and other devices while carrying out its duties, and

(c) make available [to the head of the United Nations force or mission] [to the head of the requesting agency] in that area all information in the party's possession concerning the location of minefields, mined areas, mines, [booby-traps] and other devices in that area.

2. When a [force, mission, agency or other body under the authority of the United Nations or of a regional arrangement (agency) acting under Chapter VIII of the United Nations Charter] performs functions in any area, any party to the conflict concerned shall provide protection of that body except where, because of the size of such body, it cannot adequately provide such protection. In that case it shall make available to the head of the [force, mission, agency or other body] in that area the information in its possession concerning the location, in that area, of minefields, mined areas, mines, [booby-traps] and other devices.

[3. Each party to the conflict shall provide information and protection as specified in paragraphs 1 and 2 and under the conditions set out therein to

1/ Bracketed language will require further consideration in the light of ongoing related work in the Ad Hoc Committee on the Safety of United Nations Personnel, at the United Nations General Assembly Sixth Committee.

2/ It was suggested that the specific measures described in Article 8 should be limited to United Nations forces or missions in light of their far-reaching character. At the same time, it was suggested that appropriate protections be given to an even broader range of peacekeeping forces, or internationally recognized humanitarian or relief activities, which might, in appropriate cases, include mine clearance, provision of information on the location of mines, or the provision of escorts.

the International Committee of the Red Cross when the latter is working in an area of minefields, mined areas, mines, [booby-traps] and other devices.]

Article 9

[Removal of minefields, [mined areas,] mines, [booby-traps]
and other devices and international cooperation] 1/

1. [Upon the cessation of active hostilities] [After the effective cessation of hostilities and the meaningful withdrawal of forces from the combat zone] each party to the conflict shall clear, remove or destroy, or maintain in accordance with Article 4, all minefields, mined areas, [booby-traps,] and other devices remaining in territory under its control.
2. If mines, [booby-traps] and other devices laid by a party to a conflict are in territory not under its control, each party to the conflict is further obliged to provide timely information and technical and material assistance necessary to clear all such devices.
3. Further, the parties shall endeavour to reach agreement, both among themselves and, where appropriate, with other States and with international organizations, on the provision of technical and material assistance - including, in appropriate circumstances, joint operations - necessary to remove or otherwise render ineffective minefields, mined areas, [booby-traps] and other devices laid during the conflict.
4. The activities regarding removal referred to in this Article shall, where appropriate, be carried out in consultation with any other parties affected.
- [5. Upon receiving the request from a State party for any technical assistance, to meet the requirement/specifications laid down for the mines (self-destruct, self-neutralizing); the Depositary of this Convention will render this assistance free of cost.]

It will employ all possible means at its disposal to ensure:

- (a) Transfer of technology from advanced nations to the developing countries for acquisition on no cost basis;
- (b) Allocate requisite funds for the assistance through United Nations coordinated programme.]

1/ It was suggested that the provisions relating to the removal of mines as well as to the international cooperation necessary for such removal should be treated in a specific article.

It was also suggested that Article 9 should be distinct from proposals concerning technical assistance which might become necessary in order to apply the technical requirements resulting from proposals for prohibitions and restrictions proposed by some delegations.

Proposals regarding Article 9

[Technological cooperation and assistance

1. Each State party shall undertake to facilitate and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of mine clearance.
2. The States parties shall undertake to provide information concerning various means and technologies of mine clearance to the data bank established within the United Nations system. The data bank shall contain the information provided by States parties and international organizations which upon the request will be freely available to all States parties.
3. The coordinated mine-clearance programme established within the United Nations as per in the United Nations General Assembly Resolution 48/7 adopted without a vote shall also, within the resources available to it, and at the request of a State party, provide expert advice and assist the State party in identifying how its programmes for the mine clearance could be implemented.
4. Each State party undertakes to provide assistance through the United Nations coordinated programme and other relevant United Nations bodies and to this end to elect to take one of the following two measures:
 - (a) to contribute to the voluntary fund for assistance, established by United Nations coordinated programme;
 - (b) to declare not later than 90 days after the amended protocol II enters into force for it, the kind of assistance it might provide in response to an appeal by the United Nations coordinated programme. If, however, a State party subsequently is unable to provide the assistance envisaged in its declaration it is still under the obligation to provide assistance in accordance with this paragraph.
5. The request by a State party to receive assistance, substantiated by relevant information, shall be submitted to the United Nations programme and the Depositary that shall transmit it immediately to all States parties and related international organizations. Subsequently after the receipt of the request, an investigation shall be initiated in order to provide foundation for further action. A report consequently shall be forwarded, accompanied by relevant facts related to the request as well as the type and scope of the assistance needed.]

Technical Annex

1. Guidelines on recording

The recording of the location of minefields, mined areas, [booby-traps] and other devices shall be done as per the following guidelines:

- (a) Maps, diagrams or other records should be made in such a way as to indicate the location of minefields, mined areas, [booby-traps] and other devices; as far as minefields and mined areas are concerned they should also indicate their perimeters and extent.

(b) The location of the minefields and mined areas should be specified accurately by relation to the coordinates of reference points and the estimated dimensions of the area containing mines in relation to those reference points.

(c) The location of [booby-traps] and other devices should be specified accurately, by relation to the coordinates of reference points.

(d) [The estimated location and area of remotely delivered mines should be specified accurately by coordinates of reference points and should be ascertained and marked on the ground at the earliest opportunity. The total number and type of mines laid, the date and time of laying and the self-neutralizing/self-destruction [/self-deactivation] time period should also be recorded.]

(e) For purposes of detection and clearance of mines, [booby-traps] and other devices, diagrams or other records should contain complete information on the type, number, emplacing method, type of fuse and life time, date and time of laying, of all the munitions laid.

[(f) Concept of a repository of records.]

2. Specifications for the detectability of mines

(a) [To facilitate detection and clearance of mines by widely available detection equipment a minimum of 8 grams of [irremovable] iron in a single coherent mass has to be integrated in all mines.]

(b) [A sufficient quantity of [irremovable] material or any appropriate device, [incorporating detectability equivalent to 8 grams of iron in a single coherent mass,] to enable detection by commonly available technical detection equipment shall be placed in or on every [anti-personnel] mine emplaced.]

(c) [To facilitate detection and clearance, all mines must have irremovable metallic elements in their construction.]

3. Specifications for self-destruction and self-neutralizing mechanisms and for self-deactivation]

(a) [Mines, booby-traps, and other devices with self-destruction [or self-neutralization] mechanisms, [or with self-deactivation], shall be designed and constructed so that no more than 1 in every 1,000 such munitions will be operable .. days after emplacement.] 1/

(b) [Mines, booby-traps, and other devices with self-deactivation shall be designed and constructed so that, once deactivated, they cannot be reactivated by means available outside their manufacture plant or a comparable facility.]

4. International sign for minefields and mined areas]

1/ It was suggested that a shorter time limit be established for remotely delivered anti-personnel mines.

APPENDIX I

Proposals relating to verification and compliance

[Article 10]

[Verification Commission]

[1. Within _____ after entry into force of this Article, the Depositary shall convene a meeting in New York of Parties bound by this Article, which shall designate _____ of their number to serve as a Verification Commission, taking into account equitable geographic distribution. Members of the Commission shall serve for two-year periods and shall be eligible for re-election. The Commission shall take all its decisions by consensus if possible, but otherwise by a majority of members present and voting.]

[1. Each State party shall be entitled to ask the Depositary to convene a Verification Commission within a period of one week, to conduct an inquiry in order to clarify and resolve any questions relating to possible non-compliance with the provisions of this Protocol concerning the use of mines, booby-traps and other devices. The request for an inquiry shall be accompanied by relevant information and evidence confirming its validity. 1/

2. Any State party may appoint a representative to the Verification Commission which shall meet in New York. Subject to the provisions of paragraph 3 of this article [and paragraph 1 of Article 11] the Verification Commission shall take its decisions by consensus if possible, but otherwise by a majority of members present and voting.] 2/

The costs of the Verification Commission's activity shall be covered by the States parties in accordance with the United Nations scale of assessments, adjusted to allow for differences between the number of States Members of the United Nations and the number of States parties, subject to the provision of (Article 11, paragraph 3).

[3. The Verification Commission shall, not later than 48 hours after it has been convened, decide whether to conduct the inquiry requested.]

[3. An inquiry shall be held unless the Verification Commission decides, not later than 48 hours after it has been convened, with a majority of two thirds of its members present and voting that the information and evidence produced does not justify an inquiry.]

1/ It was suggested that it should also be possible for the Secretary-General to request the convening of a Verification Commission in cases where alleged violations of the Protocol affect peace-keeping forces under his control.

2/ It was suggested that the participation of a quorum of a simple majority should be necessary for a Verification Commission to be instituted.

For the purposes of the inquiry the Verification Commission shall seek useful assistance and relevant information from States parties and international organizations concerned and from any other appropriate sources.]

[Article 11]

[Fact-finding missions]

[1. The inquiry shall be supplemented by evidence collected on the spot or in other places under the jurisdiction or control of the party to the conflict concerned unless the Verification Commission decides with a majority of two thirds of its members present and voting that no such evidence is required.]

[1. The Verification Commission may decide that the inquiry has to be supplemented by evidence collected on the spot and in any place under the jurisdiction or control of the party to a conflict concerned.] In such cases the Verification Commission shall notify the party to a conflict concerned of the decision to send a team of experts to conduct a fact-finding mission at least 24 hours before the team of experts is expected to arrive. It shall inform all States parties of the decision taken as soon as possible.

2. For the purposes of paragraph 1 of this article, the Depositary shall prepare a list of qualified experts provided by States parties, and constantly keep this list updated. The experts shall be designated in view of the particular fields of expertise that could be required in a fact-finding mission concerning the alleged use of mines, booby-traps and other devices. The initial list as well as any subsequent change to it shall be communicated, in writing, to each State party without delay. Any qualified expert included in this list shall be regarded as designated unless the State party, not later than thirty days after its receipt of the list declares its non-acceptance[, in which event the Verification Commission shall decide whether the expert in question shall be designated].

3. Upon receiving a request from the Verification Commission, the Depositary shall appoint a team of experts from the list of qualified experts to conduct a fact-finding mission at the site of the alleged incident. Experts who are nationals of States parties involved in the armed conflict concerned or of States parties which requested the inquiry shall not be chosen. The Depositary shall dispatch the team of experts at the earliest opportunity taking into account the safety of the team.

4. The party to a conflict concerned shall make the necessary arrangements to receive, transport and accommodate the team of experts in any place under its jurisdiction or control. 1/

5. When the team of experts has arrived on the spot, it may hear a statement of information by official representatives of the party to a conflict concerned and may question any person likely to be connected with the alleged violation. The team of experts shall have the right of access to all areas

1/ It was suggested that further consideration be given to the issue of the cost of travel by the team of experts.

and installations where evidence of violation of this Protocol could be collected. The party to a conflict concerned may make any arrangements it considers necessary for the protection of sensitive equipment, information and areas unconnected with the subject of the fact-finding mission[, or for any constitutional obligations it may have with regard to proprietary rights, searches and seizures, or other constitutional protections. In that event, it shall make every reasonable effort to satisfy the legitimate needs of the team of experts through other means.]

6. After having completed its fact-finding mission, the team of experts shall submit a report to the Depositary not later than one week after leaving the territory of the State party in question. The report shall summarize the factual findings of the mission related to the alleged non-compliance with the Protocol. The Depositary shall promptly transmit the report of the team of experts to all States parties.]

[Article 12]

[Compliance

1. The States parties undertake to consult each other and to cooperate with each other in order to resolve any problems that may arise with regard to the [interpretation and] application of the provisions of this Protocol.

2. [If the Verification Commission concludes, based on the inquiry, including any report of the team of experts referred to in article 11, paragraph 6, that there has been a violation of the provisions of this Protocol on the use of mines, booby-traps and other devices, the parties to the conflict which are responsible shall be required to take all appropriate measures to remedy the situation and, in particular, to ensure the removal of the minefields and mines.]

[The Verification Commission shall review the report of the inspection team as soon as it is presented. If the Verification Commission reaches the conclusion that further action may be necessary, it shall take appropriate measures to redress the situation and to ensure compliance with this Protocol.]

[However, if the Verification Commission finds that there has been no violation of the Protocol, the party which initiated the proceedings will bear the costs incurred by the Verification Commission.]

If the parties to the conflict responsible for the violation cannot, for a duly supported reason, comply with the provisions of the previous paragraph, they shall arrange financing, logistical support and staff for mine removal operations by qualified experts. For the purposes of this paragraph, the Depositary shall compile and keep up to date a list of qualified experts supplied by the States parties, on whom the Depositary may call to conduct the corresponding operation.

[3. If weapons covered by this Protocol have been used in violation of its provisions, the States parties shall take collective measures, in accordance with international law, against the State party or States parties responsible for the violation.

4. In the event of a serious violation or emergency calling in question compliance with the provisions of the Protocol, the Verification Commission shall consider what action to take. The question may be brought to the attention of the Security Council of the United Nations under the conditions and in accordance with the procedures specified in the Charter of the United Nations.]

[4. In cases where serious damage to the object and purpose of this Protocol may result from activities prohibited by Articles (3 - 6), the Verification Commission may recommend collective measures to States parties in conformity with international law and, as appropriate, bring the issue to the attention of the United Nations Security Council.]

5. The provisions of the 1949 Geneva Conventions relating to the repression of breaches and grave breaches shall apply to breaches and grave breaches of this Protocol. Each party to a conflict shall take all appropriate measures to prevent and suppress breaches of this Protocol. Any act or omission in violation of this Protocol, if committed wilfully or wantonly and causing death or serious injury to the civilian population shall be treated as a grave breach. A party to the conflict which violates the provisions of this Protocol shall, if the case demands, be liable to pay compensation, and shall be responsible for all acts committed by persons forming part of its armed forces. High Contracting Parties and parties to a conflict shall require that commanders ensure that members of the armed forces under their command are aware of, and comply with, their obligations under this Protocol.]

The following has been presented as an alternative text to Articles 10, 11 and 12. 1/

(Verification and compliance

1. Each State party to the Convention undertake to take necessary measures to prohibit indiscriminate use of landmines.
2. Each State party undertakes to protect civilians from the effects of the use of landmines and further undertakes to ensure that all the landmines meet requirements of this Protocol.
3. Each State party to this Protocol undertakes to facilitate the fullest possible exchange of technological information in order to assist State parties to comply with restrictions/requirements of this Protocol.

1/ It was stated that the measures in the proposal could be developed further.

4. Each State party undertakes to provide/exchange information with other State parties to promote transparency and credibility for wider adherence to this Protocol's requirements/restrictions.

5. Each State party to this Convention affirm the recognized objective of prohibiting the indiscriminate use of landmines and to this end undertake to provide on a voluntary basis pertinent information to the depositary annually, i.e.

(a) Progress on implementation of the Protocol II.

(b) Information on recovery destruction/clearance after military use of mines.

(c) Information on casualty to civilian population occurred due to deployment of such mines in her territory.]

[Article ... 1/]

[Commission of States parties

1. For the purposes of this Protocol, a Commission shall be established by the States parties. The Commission of States parties shall meet in Geneva regularly. Any State party may appoint a representative to the Commission. The ICRC shall be invited to participate in the work of the Commission as an observer. The Commission shall consider annual reports provided by the States parties on the implementation of the Protocol. The Commission shall take its decisions by consensus if possible, but otherwise by a majority of members present and voting.

2. Each State party undertakes to provide annually the relevant information to the Commission, i.e.

(a) Progress on implementation of the Protocol II;

(b) Information on mine clearance;

(c) Information on civilian casualties occurring due to deployment of mines in its territory.

3. Each State party undertakes to provide/exchange information with other State parties to promote transparency and credibility for wider adherence to this Protocol requirements/restrictions.

1/ Some delegations consider that elements of this text may be more appropriately addressed through amendment of the Convention, rather than of Protocol II. Further, this text is without prejudice to proposals for more frequent meetings of the Review Conference than currently provided for in the Convention.

[4. Each State party to this Protocol undertakes to facilitate the fullest possible exchange of technological information in order to assist States parties to comply with restrictions/requirements of this Protocol.]

5. The Commission shall also carry out other functions as are necessary for the implementation and review of this Protocol.

6. The costs of the Commission's activities shall be covered by the States parties in accordance with the United Nations scale of assessments, adjusted to allow for differences between the number of States Members of the United Nations and the number of States parties.]

APPENDIX II

Other Proposals

RUSSIAN FEDERATION

Convention

Article 5 Entry into Force

1. This Convention shall enter into force three months after the date of deposit of the sixth instrument of ratification, acceptance, approval or accession.

Paragraphs 2, 3 and 4 of this Article to be modified in accordance with the amendments to paragraph 1.

Article 9

(a) New paragraphs. Denunciation

1. Any High Contracting Party may, by so notifying the Depositary, denounce this Convention or any of the annexed Protocols upon the expiry of 10 years since the date on which the Convention and any of its Protocols came into force. Such denunciation shall take effect one year after the date on which it is registered.

2. Any High Contracting Party which ratifies this Convention and any of its annexed Protocols and does not, within the year following the expiry of the 10-year period mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, shall be bound for a further 10-year period and may thereafter denounce this Convention or any of its annexed Protocols upon the expiry of each 10-year period under the terms of this article.

(b) The first sentence of the existing paragraph 2 to be deleted.
Protocol

Article 6

Prohibition on the use of certain mines

1. It is prohibited to use

- Anti-personnel mines which do not have metallic elements in their construction;

Proposal by Estonia

Protocol on anti-personnel landmines

It is prohibited to use, develop, manufacture, stockpile and transfer anti-personnel landmines.

The States parties bound by this Protocol undertake to destroy the anti-personnel landmines which are in their possession.
