A COMPARATIVE STUDY OF THE SCOPE ORIGINALLY PROPOSED OR AIMED AT IN DRAFT MULTILATERAL DISARMAMENT TREATIES OF A UNIVERSAL CHARACTER CONCLUDED UNDER UNITED NATIONS AUSPICIES AND THE SCOPE FINALLY FIXED IN THOSE TREATIES, INCLUDING THE CONTEMPLATED MEASURES FOR EXPANDING THAT SCOPE

BACKGROUND PAPER PREPARED BY THE SECRETARIAT

CONTENTS

INTRODUCTION .................................................. 2

CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDIFFERENT EFFECTS .......... 3

A. Introduction .................................................. 3
B. Non-detectable fragments ..................................... 4
C. Land-mines and other devices .................................. 4
D. Incendiary weapons ............................................ 10
E. Small-calibre weapons systems ................................. 17
F. Other weapons ................................................ 18
G. Adoption of the Convention .................................... 19
INTRODUCTION

1. In 1978, the General Assembly held its first special session devoted to disarmament (tenth special session) and decided that a second special session should be held at a future date. 1/ That same year, at its thirty-third regular session, the General Assembly decided to convene the second special session devoted to disarmament in 1982 (resolution 33/71 H, sect. III).

2. The General Assembly, at its thirty-fifth session, in 1980, decided to establish a Preparatory Committee for the Second Special Session of the General Assembly Devoted to Disarmament, composed of 78 Member States, appointed by the President of the General Assembly on the basis of equitable geographic distribution. It requested the Preparatory Committee to prepare a draft agenda for the second special session devoted to disarmament, to examine all relevant questions relating to that session and to submit to the General Assembly at its thirty-sixth session its recommendations thereon (resolution 35/47).

3. At its 3rd meeting, on 5 December 1980, the Preparatory Committee requested the Secretariat to prepare a number of factual background papers on various subjects, including one entitled "A comparative study of the scope originally proposed or aimed at in draft multilateral disarmament treaties of a universal character concluded under United Nations auspices and the scope finally fixed in those treaties, including the contemplated measures for expanding that scope", which is the subject of this paper. The Committee indicated that this could be done either by updating or supplementing the corresponding papers which had been prepared for the first special session devoted to disarmament or in other ways, as appropriate (A/AC.206/83R.3).

4. In response to the request of the Preparatory Committee, the Secretariat has prepared this paper, which deals with 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. This is the only multilateral disarmament agreement of a universal character that has been concluded under the auspices of the United Nations since the corresponding paper, 2/ bearing the same title, was prepared for the General Assembly at its first special session devoted to disarmament.


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

A. Introduction

5. The question of prohibitions or restrictions of the use of certain
conventional weapons that may be deemed to be excessively injurious or to have
indiscriminate effects has, over the years, been considered by the international
community under the aegis of the United Nations, the Diplomatic Conference on the
Reaffirmation and Development of International Humanitarian Law Applicable in
Armed Conflicts as well as of the International Committee of the Red Cross (ICRC).

6. In 1977, on the recommendation of the Diplomatic Conference, the General
Assembly decided to hold a United Nations conference in 1979, with a view to
reaching agreements on prohibitions or restrictions of the use of such
conventional weapons. To that end, the Assembly decided to convene a preparatory
conference for the United Nations Conference open to all participants and
Member States which had been invited to attend the Diplomatic Conference.

7. The Preparatory Conference held two sessions in Geneva, from 28 August to
15 September 1978 and from 19 March to 12 April 1979. The Conference had before
it a number of proposals on land-mines and other devices, incendiary weapons,
small-calibre weapons systems, non-detectable fragments, fuel-air explosives,
anti-personnel fragmentation weapons and flechettes as well as an outline of a
general treaty to which optional protocols or clauses embodying agreed
prohibitions or restrictions of the use of specific weapons would be attached.

8. Although the Preparatory Conference made some progress in its consideration
of some of the proposals, it was able to finalize only one draft text for
submissions to the United Nations Conference, namely the proposal on non-detectable
fragments on which unanimous agreement was reached.

9. The United Nations Conference held two sessions, also at Geneva: one from
10-28 September 1979 and the other from 15 September to 10 October 1980. It had
before it the report of the Preparatory Conference 3/ as well as a number of
additional proposals submitted in the course of its work.

10. On 10 October, the Conference unanimously adopted its Final Act and the
following instruments and resolution:

(a) 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;

(b) Protocol on Non-Detectable Fragments (Protocol I);

3/ Ibid., Thirty-third Session, Supplement No. 44 (A/33/44).
(c) Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Protocol II);

(d) Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III);

(e) Resolution on small-calibre weapons systems.

The texts of the instruments and resolution are appended to the Final Act. *4*

B. Non-detectable fragments

11. One of the numerous proposals submitted to the Preparatory Conference, which immediately commanded the broadest support, was the proposal on the prohibition of the use of non-detectable fragments. It was sponsored by 32 States. The Conference approved it without any changes at its 1979 session. The proposal eventually became Protocol I to the Convention. It reads: "It is prohibited to use any weapon the primary effect of which is to injure by fragments which in the human body escape detection by X-rays."

12. The weapons in question are those which are, completely or mainly, composed of substances such as wood, glass or plastics, substances which consist of light atoms which do not differ appreciably from the atoms of the human body with respect to the absorption of X-rays. For this reason, fragments from these types of weapons cannot be extracted from the human body except with great difficulty and delay. The delay, however, considerably enhances the risk of infection and suffering, which is considered to be beyond the normal military necessity of immobilizing the adversary.

13. It should be noted that the prohibition covers only weapons whose primary effect is to injure by non-detectable fragments. It does not apply to components in some weapons which, on an incidental basis, may enter the human body and be undetectable by X-rays. The rule covers only weapons designed to injure by non-detectable fragments. For instance, it is not uncommon to use plastic casings for mines in order to avoid detection by mine-detectors. Under the terms of the Protocol the use of such casings is not prohibited as long as their primary effect is to injure by the blast effect of the weapon rather than by the fragments of such casings.

C. Land-mines and other devices

14. As regards land-mines and other devices, the Preparatory Conference had before it only one proposal: draft articles for a treaty submitted by Australia, Austria, *4* A/CONF.95/15, annex I.
Denmark, France, the Federal Republic of Germany, Mexico, the Netherlands, New Zealand, Norway, Spain and the United Kingdom. The proposed scope of application was fairly comprehensive. It covered the use, in armed conflicts on land, of mines and booby traps and remotely delivered mines. It did not, however, apply to the use of anti-ship mines at sea or in inland waterways, but was intended to be applied to mines laid to interdict beaches, waterway crossings or river crossings.

15. The consideration of the proposal resulted in general agreement on the scope of application, definitions and general restrictions. Only two main issues remained unresolved: the question of making available to an occupying adversary the details of the location of these weapons and the question of the restriction of the use of remotely delivered mines.

16. The United Nations Conference, at both its sessions in 1979 and 1980, concentrated all its efforts on resolving these two issues. The question of disclosure of information concerning the location of minefields, mines and booby traps to an adversary was raised in the context of the formulation of a general rule on the recording and publication of the location of these weapons. There was an early agreement that the parties to a conflict should record the location of all pre-planned minefields and areas in which large-scale and pre-planned use of booby traps has been made, as well as endeavour to ensure the recording of the location of all other weapons in this category which they have laid or placed in position. The disagreements, however, arose in connexion with the provision of the rule on the disclosure of the records. According to a Western proposal, the disclosure would take place "after the cessation of active hostilities", and would apply not only to situations where no territorial changes have been effected but also to situations where parts of the territory of a State party have been placed under the occupation or control of an adversary State party. More specifically, under the proposal, the occupying force would not be required to disclose the location of the weapons laid or placed by it on the territory of an adversary which it has subjected to its control or occupation, while the occupied State party would be under the obligation to disclose the information regarding its own territory over which it no longer exercised effective control. The main motive behind the proposal was the notion that in this way the occupied party would facilitate the protection of its own population, since the occupying force would in any case remain bound by the general rules on the protection of civilian population as regards the effects of its own weapons.

17. A number of States strongly opposed this solution for two basic reasons. First, the rule, in their opinion, entailed a mandatory requirement for those situations in which the only defensive means counterbalancing foreign occupation of one's own territory would consist of the minefields, mines and booby traps remaining in the territory occupied by the adverse party. Secondly, compliance with this rule by the occupied party might be interpreted as its

---

acceptance of the de facto occupation and of a permanent cessation of hostilities. This would have unacceptable consequences, particularly for those States whose constitutions did not recognize the cessation of active hostilities as long as foreign occupation of their territory existed. In defending the proposal its proponents pointed to the inherent dangers for one's own civilians in territory occupied by the adverse party. They also argued that it was illogical to continue mine warfare after the effective cessation of hostilities, and that humanitarian concerns strongly dictated the disclosure of the location of mines at that time.

18. After prolonged negotiations and informal consultations, a compromise solution was finally reached. In effect, the rules provide that the disclosure of information is mandatory only in cases where the forces of neither party are in the territory of the adverse party, or once complete withdrawal of the forces of the parties from the territory of the adverse party has taken place. In the latter case, however, the disclosure of information could be arranged even before the withdrawal of the forces, but by mutual agreement between the parties concerned, in other words, on a voluntary basis.

19. As regards the use of remotely delivered mines, that is, the mines delivered by artillery, rockets, mortar or similar means, the discussions centred on whether their use should be restricted or prohibited altogether. The proponents of the restrictions - most of the Western States - argued that in view of definitive military advantages of the weapon in question, their use should be strictly regulated rather than completely prohibited. They felt that various technical means, such as an effective neutralizing mechanism, could substantially eliminate the danger of their indiscriminate use by which civilian population would be affected. The advocates of complete prohibition of remotely delivered mines - most of the non-aligned and neutral countries and in particular Yugoslavia - held that these weapons would give advantage only to militarily advanced States, on the one hand, and that the proposed restrictions for their use were not stringent enough, on the other. They pointed out, for instance, that the two proposed conditions for the use of remotely delivered mines were optional rather than mandatory. In other words, if they were to accept the restrictions, then they preferred to use, in the enumeration of the conditions, the conjunction "and" instead of "or" as advocated by the Western States, so that the use of remotely delivered mines would be prohibited unless (a) their location could be accurately recorded and (b) each such mine were fitted with an effective neutralizing mechanism.

20. The protracted negotiations, however, did not produce any new solution. Instead, the proponents of the complete prohibition agreed to accept the original proposal. Their decision was very much facilitated by the resolution of a number of other outstanding issues in the Convention and the Protocols, on many of which their viewpoints were accepted by the Conference.
21. In the course of its deliberations on the basis of the proposal submitted by Morocco, \(^6\) the Conference also adopted technical guidelines on the means and methods of the recording of the location of minefields, mines and booby traps.

22. In the course of the deliberations of the Conference, the draft articles were broadened with the provisions on the protection of the United Nations personnel on peace keeping, observation, fact-finding or similar functions.

23. The draft on prohibitions or restrictions on the use of mines, booby traps and other devices was adopted by the Conference as Protocol II to the Convention. It consists of nine articles and a technical annex containing guidelines on recording.

24. The first two articles of the Protocol deal respectively with the material scope of application and definitions. The material scope of application (art. 1) excludes the applicability of the Protocol to anti-ship mines at sea or in island waterways so as not to interfere with existing rules of international law relating to the use of these devices. It applies, however, to the use of all mines in what is generally considered to fall within the limits of land warfare, including interdictions of beaches, waterway crossings or river crossings. As regards definitions (art. 2), it should be pointed out that the term "aircraft" in paragraph 1, which defines a "mine", should be interpreted as also including, apart from fixed-wing aircraft, helicopters, drones, remotely piloted vehicles, balloons and similar flying vehicles.

25. Article 3 sets general restrictions on the use of weapons referred to in article 1. This article was basically drawn from article 51 (Protection of the civilian population) of Additional Protocol I to the Geneva Conventions. Without departing from the legal concepts expressed in that article, article 3 applies the language of article 51 to the use of mines, booby traps and other devices. Its provisions, in fact, distinguish between two different situations: one, regarding the civilian population in general and the other, regarding the civilians in specific situations. In the first instance, it prohibits in all circumstances, either in offence, defence or by way of reprisal, the use of such weapons against the civilian population as such or against individual civilians (para. 2). In the latter instance, it prohibits the indiscriminate use of these weapons and defines such indiscriminate use as any placement of these weapons (a) which is not on, or directed at, a military objective; (b) which employs a method or means of delivery which cannot be directed at a specific military objective; or (c) which may be effected 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 (para. 3). In other words, the provision does not rule out the possibility of the loss of civilian life as a result of attack on a military objective, provided that the loss is incidental and proportionate to the military advantage. In addition, civilians taking a direct part in active hostilities would not be protected by the provisions of this article. This rule was drawn from paragraph 3 of article 51 of the Additional Protocol I to the Geneva Conventions.

\(^6\) A/CONF.95/6, annex I, appendix B, attachment 2, part A.
26. Article 4 provides for restrictions on the use of mines other than remotely delivered mines, booby traps and other devices in populated areas. Thus, it is prohibited to use weapons to which the article applies in any city, town, village or other area containing a similar concentration of civilians in which combat between ground forces is not taking place or does not appear to be imminent: unless either (a) they are placed on or in the close vicinity of a military objective belonging to or under the control of an adverse party; or (b) measures are taken to protect civilians from their effects, for example, the posting of warning signs, the posting of sentries, the issue of warnings or the provision of fences.

27. Article 5 regulates the restrictions on the use of remotely delivered mines. As noted earlier, paragraph 1 of the article prohibits the use of those weapons unless such mines are only used within an area which is itself a military objective or which contains military objectives, and (a) their location can be accurately recorded; or (b) an effective neutralizing mechanism is used on each such mine - self-actuating or a remotely controlled - designed to render harmless or destroy a mine when it is anticipated that the mine will no longer serve or when it no longer serves the military purpose for which it was placed in position.

28. As an additional measure of protection of the civilians, paragraph 2 of this article, which is based on article 57, paragraph 2 (c) (Precautions in attack) of Additional Protocol I to the Geneva Conventions, provides that effective advance warning shall be given of any delivery or dropping of remotely delivered mines which affect the civilian population. It is, however, somewhat weakened by the qualification added at the end which reads "unless circumstances do not permit".

29. The proponents of the complete prohibition of this type of weapons, in accepting a more limited approach, insisted, as a safeguard measure, on a specific interpretation of the provision. Consequently, the Conference included in its proceedings the following interpretation: "For the understanding and application of article 5, it should be noted that the restrictions in article 3 apply fully to the use of remotely delivered mines to which article 5 specifically applies."

30. Article 6 deals with the prohibition on the use of certain booby traps. Two categories of booby traps are covered by this rule: those which are specifically treacherous or pernicious (para. 1) and those which are designed to cause superfluous injury or unnecessary suffering (para. 2). The first category is further subdivided on the basis of what determines their treacherous or pernicious nature. Thus, one group consists of the so-called "prefabricated" booby traps which could be mass-produced. They are defined as "any booby trap in the form of an apparently harmless portable object which is specifically designed and constructed to contain explosive material ...". The other group consists of any booby trap when attached to or associated with particular objects, such as internationally recognized protective emblems, signs or signals, sick, wounded or dead persons, food or drink, etc., and it is their use in that conjunction that makes them specifically treacherous or pernicious. The use of both groups of booby traps, as well as those in the second category (designed to cause superfluous injury or unnecessary suffering) is also prohibited in all circumstances. This rule in fact recalls paragraph 2 of article 35 (Methods and means of warfare: basic rules) of Additional Protocol I to the Geneva Conventions.
31. Article 7, on the recording and publication of the location of minefields, mines and booby traps, as noted earlier, was the subject of lengthy negotiations which resulted in a compromise formulation. As far as recording is concerned, two basic rules are laid down: the parties to a conflict shall record the location of all pre-planned minefields and all areas in which they have made large-scale and pre-planned use of booby traps (para. 1); the parties shall endeavor to ensure the recording of the location of all other minefields, mines and booby traps (para. 2). The rule in the latter case is made less stringent considering that in some instances, due to the military circumstances prevailing at the time, the laying or placing of these weapons may be done with considerable haste, hence the phrase "shall endeavour to ensure". As regards the publication of the records, their disclosure is mandatory after the cessation of active hostilities and also, in cases of temporary occupation, after complete withdrawal of the occupying force from the territory of the adverse party (para. 3 (a) (i) and (ii)). The parties to a conflict shall also, when a United Nations force or mission performs functions in any area, make available to it such information as is required under article 8, which deals with the protection of United Nations forces and missions (para. 3 (b)). The last paragraph of the article states that the parties shall further, whenever possible, by mutual agreement, provide for the release of information concerning the location of minefields, mines and booby traps (para. 3 (c)). Compliance with the last two subparagraphs, 3 (b) and 3 (c), is not made dependent, as in the preceding subparagraph 3 (a) (i) and (ii), on the cessation of active hostilities or the withdrawal of the occupying forces. This is intended to provide, on the one hand, the necessary protection to a United Nations force or mission and, on the other, to enable the parties to a conflict voluntarily to enter into any agreement on the disclosure of the records, as soon as they consider it desirable.

32. In connexion with article 7, paragraph 3 (a) (i), which provides that the parties to a conflict shall "take all necessary and appropriate measures ... to protect civilians from the effects of minefields, mines and booby traps", a number of Western States stressed that the obligation was not formulated strongly enough. In their opinion the wording was a step backward from earlier proposals, in so far as the question of humanitarian protection was concerned. Their consent to article 7, was, therefore, conditioned to acceptance by the Conference of a certain interpretation of that article, which would be included in the report of the Conference. Consequently, the Conference included in its proceeding the following understanding:

"It is the understanding of the Conference that article 7 (3) (a) (i) must be read in combination with article 7 (3) (c) and 9. They are of universal application, irrespective of the whereabouts of opposing forces. The parties must take whatever measures are open to them to protect civilians wherever they are. They may use the records for this purpose by, for example, marking minefields or otherwise warning the civilian population of the dangers of mines and booby traps. The parties may, if they wish, assist in this process by providing, either unilaterally, by mutual agreement, or through the Secretary-General of the United Nations, information about the location of minefields, mines and booby traps."

/...
33. Article 8 is concerned with the protection of United Nations forces and missions from the effects of minefields, mines and booby traps. In effect, in the case of a mission other than merely a fact-finding one, each party to the conflict shall upon request do everything, as far as it is able, to protect the mission by removing or deactivating all mines and booby traps in the area, making available information about such devices to the head of the force or mission and taking other necessary measures (para. 1). In cases of a fact-finding mission, removal of mines and booby traps is not required, but the mission must be either protected from or fully informed about the location of such devices in the area (para. 2).

34. In order to further strengthen the protection of United Nations forces and missions, article 9 of the Convention, on denunciation, specifically provides that, although a denunciation becomes effective one year after such a decision has been notified to the Depositary, obligations under any Protocol containing provisions concerning situations in which peace keeping, observations or similar functions are performed by United Nations forces or missions in the area concerned will remain in force, until the termination of those functions (para. 2).

35. The last article of the Protocol, article 9, concerns international co-operation in the removal of minefields, mines and booby traps. It provides that after the cessation of active hostilities, the parties shall endeavour to reach agreement on the provision of information and technical assistance necessary to remove or otherwise render ineffective such devices placed in position during the conflict. In connexion with this article too, as already mentioned, several States insisted, and the Conference agreed, to include in its records the understanding that article 9 "can in no way be interpreted as in any way affecting the scope of article 7".

36. Finally, there is a Technical Annex to the Protocol which contains guidelines on recording. The guidelines provide, for instance, that in cases of pre-planned and large-scale use of mines and booby traps, maps, diagrams or other records should be made in such a way as to indicate the extent of the area as well as that the area should be specified by relation to the co-ordinates of a single reference point (para. 1). With regard to other minefields, mines and booby traps, this information should be recorded "in so far as possible" (para. 2).

D. Incendiary weapons

37. Concerning incendiary weapons, the Preparatory Conference had before it a number of proposals which differed considerably with regard to the proposed scope of application.

38. The most comprehensive of them was the proposal put forward by a group of countries consisting of Austria, Egypt, Ghana, Jamaica, Mexico, Romania, the Sudan, Sweden, Switzerland, Togo, Venezuela, Yugoslavia and Zaire, 7/ which provided for a

complete prohibition. The proposal read: "1. The use of incendiary weapons shall be prohibited." The proposal, however, exempted from the rule two categories of munitions which, in the opinion of the sponsors, were not real incendiary weapons. They were: (a) munitions which may have secondary or incidental incendiary effects and (b) munitions which combine incendiary effects with penetration or fragmentation effects and which are specifically designed for use against aircraft, armoured vehicles and similar targets. 8/

39. The proposal presented by Denmark and Norway 9/ was more limited in scope. It was designed to provide protection to the civilian population and, under specified conditions, also to military personnel. The respective parts of the proposal were formulated as follows:

"2. It is prohibited to make the civilian population or individual civilians the object of attack by incendiary weapons.

"3. It is prohibited to make any military objective located within a concentration of civilians the object of attack by incendiary weapons delivered by aircraft, except when that military objective is clearly separated and distinct from the civilian population.

"4. It is prohibited to make military personnel as such the object of attack by incendiary weapons, except when

"(i) The personnel is engaged or about to engage in combat or being deployed for combat engagement, or

"(ii) The personnel is under armoured protection, in field fortification or under similar protection.

"5. Whenever an attack is made by incendiary weapons in accordance with the above provisions and other applicable rules of international law, all feasible precautions shall be taken to limit the effects of such attack to the military objective itself with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects."

40. The third proposal, submitted by Australia and the Netherlands, was concerned with the protection of the civilians only, either as a direct object of attack or in the context of attacks on military objectives situated within a concentration of civilians. 10/ Thus, the proposed scope of application was defined as follows:

8/ In co-sponsoring the proposal, Jamaica and Mexico continued to be in favour of eliminating the exceptions in order to make the prohibition total.


10/ Ibid., annex, sect. K.

/...
"2. (a) As a consequence of the rules of international law applicable with respect to the protection of the civilian population against the effects of hostilities, it is prohibited to make any concentration of civilians the object of attack by means of any incendiary munition. Concentrations of civilians can either be of a permanent character, such as cities, towns and villages, or of a temporary character, such as camps and columns of refugees or evacuees;

"(b) Specific military objectives that are situated within a concentration of civilians may be made the object of attack by means of incendiary munitions, provided that the attack is otherwise lawful and that all feasible precautions are taken to limit the incendiary effects to all specific military objectives and to avoid incidental loss of civilian life or injury to civilians;

"(c) In order to reduce to a minimum the risks posed to civilians by the use of flame weapons, it is prohibited to make any specific military objective that is situated within a concentration of civilians the object of aerial attack by means of napalm or other flame munition unless that objective is located within an area in which combat between ground forces is taking place or appears to be imminent."

41. In connexion with the reference in paragraph 2 (c) to "the use of flame weapons", the proposal in the section on definitions contained an appropriate definition of that weapon. It stated "A flame munition is any incendiary munition in which the incendiary agent to be delivered on the target is based on a gelled hydrocarbon. Napalm is a flame munition."

42. In the course of the deliberations at the 1979 session of the Conference the original positions of the sponsors of the three proposals somewhat evolved. Nevertheless, the key provisions of a draft protocol on incendiary weapons, which emerged from these deliberations, were placed in brackets since agreement on them could not be reached.

43. The draft protocol consisted of two sections, one covering definitions and the other one setting out the rules. 11/ The section on definitions, except for two important issues, was agreed upon. It defined the terms such as "incendiary weapons", "concentration of civilians", "military objective", "civilian objects" and "feasible precautions". The two outstanding issues concerned the exceptions from the definition of incendiary weapons and the definition of "flame weapons".

44. As regards the section on rules, it mainly consisted of the compilation of the various proposals on the subject-matter that had been put forward which were placed in brackets as alternatives. They ranged from a general prohibition of incendiary weapons covering both the civilian and combatants, to the regulation of their use against civilians only. The non-aligned, neutral and socialist States maintained throughout the Conference that some protection must be given to combatants as well, while a number of Western States took the position that this question was in fact outside the terms of reference of the Conference and argued also that the matter had

11/ A/CONF.95/8, annex I, appendix C, attachment l.
already been dealt with in the context of the general rules on the protection of combatants contained in the rules of international law applicable in armed conflicts. There were also differences in approach regarding the measure of protection to be provided to the civilians. The draft contained a rule reaffirming existing international law applicable in armed conflicts to the effect that the civilian population as such could not be made the object of attack by incendiary weapons. Agreement was also reached in principle that there should be increased protection to civilians against attacks directed against military objectives located within a concentration of civilians. Disagreement existed, however, as to the extent of the protection. The proposals put forward in respect of the rule governing attacks on military objectives located within a concentration of civilians ranged from those prohibiting the use of "all incendiary weapons" and "air-delivered incendiary weapons" to those limited to "air-delivered flame weapons". As regards combatants, there was no agreement even in principle on their protection. The draft contained the following rule which was, however, placed entirely in brackets:

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

or

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

"(i) Are engaged in a combat situation where close air support is necessary;

"(ii) Are in, or in the vicinity of, a military objective such as armoured vehicles, field fortifications, bunkers, pill-boxes or other similar objectives.

"(b) This provision is without prejudice to the protection given to non-combatant members of armed forces by the rules of international law applicable in armed conflicts."

45. In addition, several other States proposed specific formulations governing the protection of combatants which were attached to the draft protocol on incendiary weapons. Thus, the Soviet Union proposed that the section on combatants should consist of the following rule: "It is prohibited to use incendiary weapons against combatants as such except when they are removed less than 50 to 80 km from the enemy lines." 12/ Another proposal, submitted by Jordan, provided for the protection of combatants but permitted the use of incendiary weapons against military objectives. It read: "It is prohibited to use incendiary weapons against combatants as such. However, incendiary weapons may be used against military objectives." 13/ The other two proposals provided for the prohibition of the use of

12/ Ibid., attachment 2, part A.
13/ Ibid., part D.
incendiary weapons against combatants except in certain circumstances. The
Indonesian proposal defined them in the following manner:

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

"(a) Are in or in the vicinity of armoured vehicles;

"(b) Are in field fortifications such as bunkers and pill-boxes and in caves." 14/

The proposal submitted by Nigeria contained the following prohibition:

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

"(a) Defended locality includes:

"(i) A fortification or fortified locality;

"(ii) A town which is defended by detached posts which together with it form an indivisible whole, although the posts are at a distance from the town; and

"(iii) A locality that is occupied by armed forces or when armed forces are crossing it (however the occupation of a locality by a medical armed unit only does not convert the place into a defended locality);

"(b) The killing and destruction must be proportionate to the military advantage sought." 15/

46. In the course of the 1980 session the outstanding issues received the utmost attention. One of these issues was the question of the exemptions from the definition of incendiary weapons. In principle, there was no disagreement that munitions which may have incidental incendiary effects as well as munitions which relied for their principal effect upon fragmentation, penetration or blast and had secondarily an incendiary effect should be excluded from the definition. Several States, however, notably the United States, felt that the latter exception, as defined in the draft, was technically ambiguous and, therefore, proposed orally that the weapons to be exempted should be defined as "munitions which produce fragmentation, penetration or blast effects, and which also produce incendiary effects". A number of States, while admitting that the text as originally proposed could be improved, strongly felt that the new formulation would adversely affect the objective of strengthening the protection of the civilian population since, in their

14/ Ibid., part B.
15/ Ibid., part C.
opinion, it in fact broadened the scope of the exceptions. One State, Mexico, reiterated its preference for the elimination of the subparagraph on the grounds that it referred to munitions that were in fact incendiary weapons and thus were included in the definition of these weapons. After intensive informal consultations, with the participation of a considerable number of States, a consensus text was elaborated which both eliminated ambiguities and dispelled the doubt that had been raised during the deliberations. This was achieved by including in the text a number of specific examples of munitions with combined effects as not being covered by the definition of incendiary weapons.

47. There was very little discussion on the definition of "flame weapons" because the need for such a definition depended on the rules. For this reason the three options which had been under consideration at the first session of the Conference remained in brackets. Two of them defined flame weapons with reference to napalm only. The third was a revised version of the proposal submitted by Argentina and was much broader since it covered new flame producing agents such as hydrocarbons and organometallic substances, and mentioned napalm only as an example of flame weapons. In the course of the work of the Conference two new proposals were submitted, one by Morocco 16/ and the other one by the Soviet Union. 17/ Both definitions were similar in content. They were broader than the one defining flame weapons with reference to napalm, but also less elaborate in respect of what should be included under the term "flame-producing agent or chemical". The entire question of "flame weapons" was eventually resolved in connexion with a compromise reached on the rules, which did not require this definition any longer, so that it was dropped from the draft.

48. As regards the rules, both in formal and informal discussions, it became apparent that because of the complex nature of the question, which included matters of national security, agreement would not be reached at the present moment on the protection of combatants. Proponents of this proposal made it clear, however, that their readiness to defer the entire issue would very much depend on the solution of the follow-up mechanism and on the rules concerning the protection of civilians and civilian objects. Consequently, the Conference concentrated much of its efforts on resolving the main outstanding issue regarding the civilians and civilian objects - the scope of their protection. The differences in approach persisted until the end of the Conference.

49. The United States, supported by several Western States, maintained that the rule as regards the attacks on military objectives located within a concentration of civilians should provide for the prohibition of the use of air-delivered flame weapons. In its opinion, this prohibition would satisfy the main concern of the public for indiscriminate use of incendiary weapons, since other incendiary weapons could be used effectively in the same circumstances without indiscriminate effects. This view was opposed by non-aligned and neutral States which felt that in order to provide greater protection to the civilian population the rule should ban the use of all incendiary weapons against military objectives located within a

---

16/ A/CONF.95/CW/AD.2/L.2.
17/ A/CONF.95/CW/6, annex, attachment 1.
concentration of civilians, or at least ban the use of air-delivered incendiary weapons. Socialist States, for their part, were of the opinion that, at present, it was more realistic to aim at the prohibition of air-delivered weapons, either flame or incendiary.

50. The break-through occurred only towards the end of the Conference when the United States announced that it would be ready to agree on the prohibition of the use of all air-delivered incendiary weapons. This then became the consensus solution of the problem. The agreement also made unnecessary the definition of "flame weapons". At the same time, the proponents of the proposals for the protection of combatants decided not to press the issue any longer. Their decision to this effect was greatly facilitated by the progress made in the negotiations on the follow-up mechanism conducted in the Conference Working Group on a General Treaty. Under the circumstances, Mexico also decided not to insist at present on its own proposal for complete prohibition of the use of incendiary weapons against civilians, civilian objects and combatants.

51. On the proposal of the Soviet Union, made in the course of the work of the Conference, the rules on the protection of the civilians and civilian objects were supplemented by an additional rule on the protection of forests or other kinds of plant cover.

52. The Protocol consists of only two articles of which one deals with the definition (art. 1) and the other sets the rules on the protection of civilians and civilian objects (art. 2).

53. Article 1, paragraph 1, defines an "incendiary weapon" as "any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat, or a combination thereof, produced by a chemical reaction of a substance delivered on the target". The provision goes on to specify that certain types of munitions, although they may produce some incendiary effects, should not be considered as incendiary weapons and therefore are outside the scope of the definition. The munitions in question are, on the one hand, those which may have incidental incendiary effects, such as illuminants, tracers, smoke or signalling systems, (para. 1, (b) (i)) and, on the other, those designed to combine penetration, blast or fragmentation effects with an additional incendiary effect, such as armour-piercing projectiles, fragmentation shells, explosive bombs, etc., which are not specifically designed to cause burn injury to persons (para. 1 (b) (ii)).

54. In connexion with this provision, on the proposal of a number of States, the Conference decided to include in its records the following understanding:

"It is the understanding of the Conference that the exceptions to the definition of incendiary weapons mentioned in Article 1, b are to be interpreted in good faith and not to alter the intent or to prejudice the application of the rules concerning the prohibition or restriction of use of incendiary weapons contained in the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons, especially the protection of civilians and civilian objects."

/...
55. Article 1, paragraph 2, defines "concentration of civilians" as any concentration of civilians, permanent or temporary, in inhabited parts of cities, or towns or villages, or in camps or columns of refugees or evacuees, or groups of nomads. The definition is intended to convey a word picture to the military commander regarding the protected character of the civilian population, rather than to present a precise mathematical or geographical formulation of what is "a concentration of civilians". In other words, the definition directs the commander's attention to the concern he must have for the presence or absence of the civilian population, which is fluid in wartime, rather than to the character or size of the city, town or village as such. It is to be understood that "civilians" means those persons who are not taking a direct part in the hostilities.

56. The remaining three paragraphs (3, 4 and 5) define "military objective", "civilian objects" and "feasible precautions", drawing on appropriate provisions of the 1949 Geneva Conventions and the 1977 Additional Protocol I.

57. Article 2 deals with the rules. Under the terms of paragraph 1, it is prohibited in all circumstances to make the civilian population per se the object of attack by incendiary weapons. This rule, in fact, reaffirms the provision of article 51 of Additional Protocol I to the Geneva Conventions. Under paragraph 2 it is prohibited, also in all circumstances, to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons. This provision represents the major achievement of the Conference since it goes beyond the protection provided to civilians in any other international instrument. The protection is further strengthened in paragraph 3 which provides that it is prohibited to make any military objective located within a concentration of civilians the object of attack by means of incendiary weapons other than air-delivered incendiary weapons, except when such object is clearly separated from the concentration of civilians and all feasible precautions are taken. This rule reaffirms in somewhat stronger terms the corresponding provision of Additional Protocol I. Another new rule, contained in paragraph 4, prohibits attacks by incendiary weapons on forests or other kinds of plant cover except when such natural elements are used to cover, conceal or camouflage combatants or other military objectives, or are themselves military objectives.

E. Small-calibre weapons systems

58. Concerning this category of weapons, the Preparatory Conference had before it draft clauses relating to the prohibition of the use of especially injurious small-calibre projectiles, submitted by Mexico, 18/ which read:

"It is prohibited to use small-calibre projectiles which are so designed or have such velocity that they:

(a) Break or deform on or following entry into a human body; or

---

(b) Tumble significantly within the human body; or

(c) Create shock waves which cause extensive tissue damage outside the trajectory; or

(d) Produce secondary projectiles within a human body."

There was also a working paper on the subject-matter submitted by Mexico, Sweden and Zaire. 19/

59. The Preparatory Conference held only informal exchanges of views which revealed numerous differences of viewpoints on technical matters and consequently it was agreed that further discussion of the subject-matter would be necessary.

60. In the course of its 1979 session, the United Nations Conference, following additional exchange of views, adopted a resolution on the matter which, inter alia, invited Governments to carry out further research on the wounding effects of small-calibre weapons systems and appealed to them to exercise the utmost care in the development of such systems, so as to avoid an unnecessary escalation of the injurious effects of such systems. The resolution was subsequently appended to the Final Act of the Conference.

61. At its 1980 session the Conference again gave some consideration to this question. On the basis of a working paper, introduced by Sweden, 20/ informal consultations took place among interested delegations on this matter. The conclusions of these consultations not only indicated where differences continued, but also where technical issues have now reached common understanding. A summary of the technical consultations in the informal Working Group on small-calibre weapons systems, points out that the purpose of the consultations was to provide for technical discussion and exchange of views on the question of small-calibre weapons systems but without seeking to reach agreement on specific text. Referring to substantive issues the summary states: "The philosophy on which the previous working group was based was the concept of relating wounding to energy transfer. This idea seemed potentially promising to some delegations, whereas others expressed reservations or confined their comments to the discussion of technical issues. These discussions sought to add to or clarify information available since the last working group met."

F. Other weapons

62. The Preparatory Conference had before it also a number of proposals pertaining to various other categories of conventional weapons. Mexico, for instance, submitted two draft clauses relating to the prohibition of the use of anti-personnel

19/ Ibid., annex, sect. C.
20/ A/CONF.95/CV/5.
fragmentation weapons 21/ and of flechettes. 22/ There was also a proposal on fuel-air explosives submitted by Mexico, Sweden and Switzerland. 23/

63. Due to insufficient time the matters pertaining to these weapons were discussed only in the course of the general debate. The Preparatory Conference, nevertheless, agreed that those subjects should be studied further nationally, so that consideration on them could begin at the main Conference. This, however, did not happen. The United Nations Conference focused all its attention on working out an agreement on the three protocols referred to above so that it did not have time for the consideration of these proposals and consequently no agreement thereon could be reached. The proponents of the proposals did not press the issue since many States felt that these questions could be taken up in due time in the context of the follow-up mechanism to be provided for in the Convention to which the Protocols were attached.

G. Adoption of the Convention

64. Although the question of a general convention to which the protocols on specific conventional weapons would be attached was first raised by Mexico at the Preparatory Conference, when it submitted an outline of a draft treaty, 24/ more intensive considerations of the subject-matter began only in the course of the 1979 session of the United Nations Conference. The debate, however, revealed substantial differences in approach among States on a number of issues. When the Conference met at its 1980 session it had before it an outline of a draft convention 25/ but many important provisions were placed in brackets since agreement

21/ "Anti-personnel cluster warheads or other devices with many bomblets which act through the ejection of a great number of small-calibre fragments or pellets are prohibited for use." See Official Records of the General Assembly, Thirty-third Session, Supplement No. 44 (A/33/44), annex, sect. F.

22/ "Munitions which act through the release of a number of projectiles in the form of flechettes, needles and similar, are prohibited for use." (Ibid., annex, sect. G.)

23/ "The States Party to this Protocol,

Aware of the continuous development of new types of blast weapons, in particular of the fuel-air explosives,

Anxious to prevent the use of weapons in a manner which may cause unnecessary suffering to combatants or render their death inevitable,

Have agreed to abstain from the use of munitions which rely for their effects on shock waves caused by the detonation of a cloud created by a substance spread in the air, except when the aim is exclusively to destroy material objects, such as the clearance of mine fields." (Ibid., annex, sect. B.)

24/ Ibid., annex, sect. H.

25/ A/CONF.95/8, annex II, appendix A.
on them could not be reached. Two of them were of a particular importance: the scope of application of a general convention and the question of the review and amendments (follow-up) on which a number of informal papers had been submitted. 26/

65. As regards the scope of application, there were two viewpoints. One group of States, mainly Western, considered that the Convention should apply to armed conflicts between States, that is, to the situations covered by article 2 of the 1949 Geneva Conventions. The other group, which included all non-aligned and socialist States, held that the convention should also apply to wars of national liberation, that is, to the situations regulated under article 1, paragraph 1, of Additional Protocol I to the Geneva Conventions. They argued that the scope of application, as proposed by them, coincided with the scope adopted in Additional Protocol I. Therefore, in their opinion, a more restricted scope of application in the present convention would not only fail to uphold the recent updating of the law of the Geneva Conventions, but would also be contrary to present-day political realities. This view eventually met with a consensus by all participants. Certain conditions were, however, elaborated for the application of the Convention and annexed Protocols to wars of national liberation. These conditions are contained in the article dealing with treaty relations upon entry into force of the Convention.

66. The question of a follow-up gained considerable importance when it became obvious that only a few agreements of a rather limited scope were likely to be concluded at the Conference. It was, therefore, argued by an overwhelming number of States that efforts to prohibit or restrict the use of these weapons should continue, either by way of amendments to rules which might be agreed upon at the Conference or by adoption of new rules for other categories of weapons on which agreement might not be reached or which might not be considered at the current Conference. Throughout the Conference the two aspects of the follow-up - amendments and new rules - were considered in close conjunction in an attempt to devise such a procedure which would encompass both. This, to some extent, complicated negotiations since the question of amendments was, in principle, easier to resolve.

67. As regards amendments, for instance, general agreement had already been reached on several points. First, only States parties should be able to initiate such proposals and, with regard to an annexed Protocol, only States parties bound by that Protocol. Secondly, any proposal for an amendment should be communicated to the Depositary, who should notify all States parties and seek their views on whether a conference should be convened to consider the proposal. Thirdly, amendments should be adopted and should enter into force in the same manner as the Convention, provided that amendments to the Convention might be adopted only by the States parties and that amendments to a specific Protocol might be adopted only by States parties which are bound by that Protocol.

26/ Ibid., appendix B (part 1 submitted by Austria, Canada, Denmark, Finland, Ireland, Mexico, the Netherlands, Norway, Sweden and Switzerland; part 2 submitted by France; part 3 submitted by Bulgaria, the German Democratic Republic and Poland; part 4 submitted by the USSR; part 5 submitted by the United Kingdom) and C, submitted by Australia, Canada, Denmark, the Federal Republic of Germany, Ireland, the Netherlands, Norway, Spain, the Sudan, Sweden, the United Kingdom and the United States of America.
68. A few issues, however, remained unresolved. In the first place, there was no agreement as to the time when amendments could be proposed. Two informal papers (appendix B, parts 1 and 4) suggested the formula "At any time after the entry into force". This formula was implicit in another informal paper (ibid., part 3) and in the formal proposal (appendix C). A third informal paper (appendix B, part 2) suggested the following: "After this Convention has been in force for ... years, any State Party may at any time propose amendments ...". There was no agreement concerning the convening of the conference in question either. Different views were expressed as to the number of positive replies required from the States parties, varying from one third (ibid., part 1) to two thirds (ibid., part 4). Nor was there agreement regarding the States which should be invited to the conference. The following proposals were made: "all States" (ibid., parts 1 and 4), "all States Parties" (ibid., part 2) and "all the signatories" (ibid., part 3).

69. As regards new rules, the differences in approach were much larger. There was a general agreement only on the need, in principle, to provide for a mechanism for the consideration of new rules. Concerning the practical aspects of such a procedure, various proposals were put forward: (a) convening periodic conferences to consider new rules; (b) entrusting the Committee on Disarmament with the task of negotiating new rules; (c) convening periodic conferences which would review existing rules, consider amendments and elaborate new rules; and (d) entrusting the Committee on Disarmament with a role in the negotiation of new rules, although the possibility would exist for convening a conference to negotiate such rules; such a conference, if convened, would take into account the work of the Committee but its convening would not depend on prior agreement in the Committee.

70. For the most part, the debate on new rules centred on the role of the Committee on Disarmament. Proponents of the proposal, France and socialist States, argued that it might be desirable to consider proposals for new rules even before the entry into force of the Convention, which the Committee on Disarmament could easily do. In addition, they emphasized that the consensus rule as the method of work of the Committee on Disarmament would provide guarantees when negotiating new rules, and that the security interest of States involved in the negotiations would be properly taken into account. In this context, they suggested that the Committee on Disarmament could function as an open-ended or universal negotiating forum pursuant to the rules of procedure which admit all States that so wish to participate in the deliberations.

71. Proponents of the proposal for a separate conference, which included a number of non-aligned, neutral and Western States, argued that involvement of the Committee on Disarmament, in the negotiations of these matters, would unduly lengthen its agenda which was already overburdened, thus giving little cause to believe that any work on specific conventional weapons would be carried out in the Committee in the foreseeable future. In addition, States which were not members of the Committee on Disarmament were not reassured that the Committee's rules of procedure would enable them to negotiate on equal terms since non-members, under rule 33, might only "participate in discussions" of their own proposals or working documents and, under rule 3h, "express views in the Committee" when the particular concerns of those States were under discussion. Finally, these States argued that the acceptance of a formal and unqualified consensus rule that
existed in the Committee on Disarmament would not be desirable in matters of humanitarian law. They noted that, although the present Conference worked with "factual consensus", the rule was never formalized in the rules of procedure of the Conference.

72. All outstanding issues pertaining to this question were the subject of intense informal consultations which eventually resulted in a compromise solution. Thus, agreement was reached on the one hand, to establish an independent follow-up system encompassing the procedures for the consideration of amendments, new rules and review of the scope and operation of the Convention and annexed Protocols and, on the other, to recognize that other organs, including the Committee on Disarmament, could play an independent role in furthering the objective of prohibiting or restricting the use of certain conventional weapons.

73. The Convention, as adopted by the Conference, consists of a preamble and 11 articles. Article 1 determines the scope of application of the Convention and is one of the most important provisions. It provides that the Convention and its annexed Protocols shall apply in the situations referred to in article 2 common to the 1949 Geneva Conventions (armed conflicts between States), including any situation described in paragraph 4 of article 1 of the 1977 Additional Protocol I to these Conventions (wars of national liberation). In the latter case, however, the application is conditional to acceptance by the authorities waging a war of national liberation against a State party, of the 1949 Geneva Conventions and their Additional Protocol I. This condition is spelled out in article 7, paragraph 4, of this Convention.

74. Article 7 sets out rules governing treaty relations upon entry into force of the Convention. It contains a general rule that, in case of an armed conflict, parties bound by the Convention and its annexed Protocols remain bound by them in their mutual relations, even if one of the other parties to a conflict is not bound by an annexed Protocol (para. 1). In cases of armed conflicts between a party and a State not party, the former would be bound only if the latter accepts and applies the Convention or the relevant Protocol, and so notifies the Depositary (para. 2). This rule is based on the principle of reciprocity, which is a standard legal principle. In this connexion, a number of non-aligned and neutral countries expressed preference for another principle of international law according to which the parties remain bound by the rules even though their adversary is not bound and does not observe the rules, in which case the parties may undertake appropriate reprisals. These countries felt that in view of the strictly humanitarian nature of the Convention and its Protocols, this other principle was much more desirable. This view, however, was not supported by major military Powers and the principle finally agreed upon was that of reciprocity. The same principle is also envisaged for armed conflicts (wars of national liberation) involving a State party, on the one hand, and authorities other than States, on the other (para. 4). In cases where a State party is also a party to Additional Protocol I, it undertakes to apply this Convention and annexed Protocols in an armed conflict provided that the other authority involved in it has undertaken to apply the Geneva Conventions and Additional Protocol I and undertakes to apply this Convention and the relevant annexed Protocols in relation to that conflict. In cases where a State party is not a party to Additional Protocol I, it undertakes to
apply this Convention and its relevant annexed Protocols provided that the other authority involved in the armed conflict accepts and applies the obligations of the Geneva Convention and of this Convention and the relevant annexed Protocols in relation to that conflict. The underlying aspect of this rule is that it extends the principle of reciprocity beyond the acceptance of the Convention and its annexed Protocols and includes the acceptance of the Geneva Conventions. In other words, an authority other than a State may avail itself of the protections envisaged in the Convention and annexed Protocols only if it undertakes also to be bound at least by the Geneva Conventions. This linkage was introduced on the insistence of Western countries which felt that such a rule would strengthen the cause of the international humanitarian law.

75. Article 8 on the review and amendments, as already noted, was one of the most debated issues at the Conference and one of the last to be resolved. This was due to the fact that the sponsors of various proposals for comprehensive prohibitions or restrictions of the use of specific weapons felt that if their efforts could not fully materialize at this Conference, appropriate guarantees must then be obtained for the continuation of the work in the future. The compromise agreed upon envisages the same procedures for the review of and amendments to the Convention and its annexed Protocol, and the elaboration of additional protocols relating to other categories of conventional weapons not covered by the existing annexed Protocols. Thus, at any time after the entry into force of the Convention and on the proposal of any party, a conference would be convened to consider either amendments to the Convention and the Protocols or new protocols provided that a majority of parties, that shall not be less than 16, so agree (paras. 1 and 2). If, however, even after a period of 10 years following the entry into force of the Convention no conference has been convened to consider amendments or new protocols, any party may request the convening of a conference to review the scope and operation of the Convention and its Protocols and to consider any proposal for amendments as well as possible proposals for additional protocols. All amendments and additional protocols shall be adopted and shall enter into force in the same manner as this Convention and its Protocol (para. 3). At the same time, the Convention in its preamble envisages the possibility that the General Assembly and its Disarmament Commission may decide to examine the question of a possible broadening of the scope of the existing prohibitions and restrictions. It also recognizes that the Committee on Disarmament may decide to consider the question of adopting further measures to prohibit or restrict the use of certain conventional weapons.

76. Pursuant to article 3, the Convention would be open for signature at United Nations Headquarters in New York on 10 April 1981 for a period of 12 months. As of 12 May 1981, 37 States have signed the Convention. 27/

27/ Afghanistan, Austria, Belgium, Bulgaria, Byelorussian SSR, Canada, Cuba, Czechoslovakia, Denmark, Egypt, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Norway, Poland, Portugal, Sierra Leone, Spain, Sudan, Sweden, Ukrainian SSR, USSR, United Kingdom, Viet Nam and Yugoslavia.
77. The Convention is subject to ratification, acceptance, approval or accession. Any State that wishes to become a party to the Convention must, at the same time, express its consent to be bound at least by two annexed Protocols of its choice, which shall then become an integral part of the Convention (art. 4). The Convention shall enter into force six months after the date of deposit of the twentieth instrument of ratification, approval or accession (art. 5). The Secretary-General of the United Nations is the Depositary of the Convention (art. 10).