

LANDMINES ON THE TABLE: A NEGOTIATIONS ANALYSIS OF THE GLOBAL  
CAMPAIGN TO BAN LANDMINES

By

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A DISSERTATION PRESENTED TO THE GRADUATE SCHOOL OF THE UNIVERSITY  
OF FLORIDA IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE  
OF DOCTOR OF PHILOSOPHY

UNIVERSITY OF FLORIDA

2008

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To my beloved wife and best friend, Vikki (*Boo*) and to our three wonderful children: Eric II, Anna, and Paul. Without your love, support and personal sacrifices, this endeavor would never have been possible. I am deeply and truly grateful. Thank you, God.

## ACKNOWLEDGMENTS

I would like to first thank my supervisory committee chair (Dr. Aida Hozic in the International Relations Department, Department of Political Science) for her supervision and patience. Also, my sincere and gracious appreciation goes to Dr. M. LeAnn Brown, who, as a respected member of my dissertation committee, was an important source of inspiration to me reaching this milestone achievement in my life through her frequent advice, feedback, wisdom, patience, and understanding; and for sometimes just providing an ear for me to fill.

I would also like to thank the other members of my supervisory committee (Dr. Samuel Barkin, Dr. Beth Rosenson, Dr. Paul Magnarella, and Dr. Richard Beilock) for their patience, flexibility, and understanding. Extended thanks go to members of my comprehensive exam committees: for International Relations, Dr. Ido Oren and Dr. Ana Margheritis; and for American Politics, Dr. Larry Dodd and Dr. Richard Conley. A very special “thank you” goes out to Dr. Erwin “Charles” Moody (my father and a closet-Gator fan) and Dr. Jim Titus (US Air Force Academy Professor), whose personal experiences in writing dissertations and research helped me remain calm during my numerous *writer’s block* spells and focused during my frequent bouts with *writer’s flight*.

Sincere thanks also go out to Colonel Thomas Drohan, US Air Force Academy, for allowing me the opportunity to pursue my higher education while serving in the US Air Force. I also wish to thank Sophie Delfolie of the Geneva International Centre for Humanitarian Demining, for her assistance in providing me with invaluable documentation and data used in this study. I am also very indebted to several individuals who assisted me in the collection of my research data: Mr. Richard Kidd, Department of State, Office of Weapons Removal and Abatement; Ambassador Efird and Mr. Joel Weigert (and his wife) at the US Embassy in Angola

for their wonderful hospitality during my trip to Africa; and Mr. John Stevens, U.S. Department of State. I also appreciate all the interviewees for taking their time to assist in my dissertation research.

I am indebted for the assistance, guidance, and patience I received on countless occasions from Mrs. Suzanne Lawless-Yanchisin and Mrs. Debbie Wallen in the Department of Political Science, University of Florida. Finally, a special thank you goes to Stacey Wallace and Anne Taylor in the Editorial Office, Graduate School, Office of Research and Graduate Programs, University of Florida, for their helpful guidance, editorial review, recommendations, and much appreciated patience.

The views expressed in this dissertation proposal are those of the author and do not reflect the official policy or position of the United States Air Force, Department of Defense, or the U.S. Government.

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Abstract of Dissertation Presented to the Graduate School  
of the University of Florida in Partial Fulfillment of the  
Requirements for the Degree of Doctor of Philosophy

LANDMINES ON THE TABLE: A NEGOTIATIONS ANALYSIS OF THE GLOBAL  
CAMPAIGN TO BAN LANDMINES

By

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December 2008

Chair: Aida Hozic

Major: Political Science

The global campaign to ban landmines is a dynamic case of the multilateral search for a negotiated solution to an international problem. It includes middle- and great-power states, governmental and non-governmental organizations, and coalitions, as well as, empowered individuals. The primary research question this study seeks to answer is "why did the United States and pro-ban advocates fail to reach an agreement in solving the global landmines problem?" I argue that the competitive, distributive negotiation strategies and tactics used by the United States and pro-ban advocates during the campaign ensured that a negotiated agreement was not reached between these participants--even though the participants in the campaign, for the most part, had similar interests and issues, especially in reference to the protection of the civilian, non-combatant, populations. With these common interests and issues evident, I suggest that employing more cooperative, integrative negotiation strategies and tactics would have ensured a negotiated agreement between these two groups of negotiators.

## CHAPTER 1 THE GLOBAL CAMPAIGN TO BAN LANDMINES

### Introduction

#### Background

The end of the Cold War brought with it the promise of a cleansed slate on which political actors in international relations could focus on global issues not readily accessible within the prior year's political environment. In the early 1990's, numerous humanitarian, environmental, and other global crises rose to the top of the international agenda (Mathews, 1997). These crises were especially evident in Third World states. They were previously hidden from international view by the bi-polar system. Of particular interest was the fact that it was not usually States that pushed these issues to the surface.

Non-governmental organizations (NGOs), created in response to these global concerns, multiplied incrementally, based on the number of niches carved within any given global "crisis." These organizations began realigning themselves around the globe to coincide with these "crisis" areas, offering the disadvantaged such things as medical services or food distribution assistance. NGO workers around the world quickly recognized one particular problem that continued to inhibit their operations. Landmines left over from years of civil wars and international conflicts were significantly hindering relief operations.

On 4 Dec 1997, 122 countries gathered in Ottawa, Canada to sign the *Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and On Their Destruction*, commonly known as the "Ottawa Convention." The Ottawa Convention was the outcome of six years of multilateral negotiations between "like-minded" advocates seeking a total ban on landmines and those States that supported a more limited or no-ban position. The

negotiation process associated with this campaign has been hailed as a “new model of diplomacy” for the post-Cold War political environment of multilateralism and globalization and is commonly referred to as the “Ottawa Process” (Annan, 1997a; Norwegian Nobel Committee, 1997; Axworthy, 1998; Goose and Williams, 2004; Matthew et al., 2004). Proponents of the Ottawa Process argue that its characteristics distinguish it from traditional, “old models” of negotiations representative of the Cold War (Rutherford, 1999; Short, 1999).

The International Campaign to Ban Landmines (ICBL) is a transnational advocacy network which currently includes more than 1,400 NGOs in 90 countries.<sup>1</sup> The ICBL was established in the early 1990s by a core group of six NGOs.<sup>2</sup> Their “joint call” originally sought: (1) an international ban on the use, production, stockpiling, and sale, transfer or export of antipersonnel mines; (2) the establishment of an international fund, administered by the United Nations (UN), to promote and finance landmine awareness, clearance and eradication programs worldwide; and (3) countries responsible for the production and dissemination of antipersonnel landmines to contribute to the international fund (Arms Project, HRW/PHR, 1993).

The preponderance of research and literature concerning the global campaign to ban landmines focuses primarily on such questions as: How was the problem of landmines put onto the international agenda? What role did NGOs, transnational advocacy networks and middle power states play in the campaign to ban landmines? What International Relations (IR) theory explains the negotiation results? The underlying common connection of this research agenda is that it all seeks to explain the campaign successes--but what of its failures? The literature

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<sup>1</sup> To avoid confusion, this network will be referred to throughout this study as the “ICBL,” while the general term, “global campaign,” will be used to distinguish the actual negotiation efforts between all the participants during the time period covered in this study.

concerning the global landmine campaign failures continues to appear, but it is far from fully explored (Jefferson, 1997; Anderson 2000; Troxell, 2000).

The purpose of this study is to provide an explanation of why the United States (US) and pro-ban advocates failed to reach a negotiated agreement towards solving the global landmine problem. It is important, and significant, for future negotiators, whether they are NGOs or sovereign states, to understand why the negotiations of the Ottawa Process failed to garner the support of more than 40 countries representing over 55% of the world population and three of the five permanent members of the UN Security Council.

### **Research Question**

Asserting that the global campaign to ban landmines was not as successful as ban proponents declare, this study seeks to answer the following question: why was a negotiated agreement not reached between the US and pro-ban advocates during the global campaign to ban landmines?

A major premise of this dissertation is that a negotiated agreement towards solving the global landmine problem was possible between the US and pro-ban advocates. Although, this study will not explore why individual participants had certain interests or issues, only that they did and these interests and issues were instrumental in understanding their approaches to the negotiations towards solutions to the global landmine problem. Within the commonalities of interests and issues between the participants, the negotiation strategies and tactics implemented during the campaign played a vital role in the outcome of the campaign. The analysis framework offered, based on concepts from negotiation theory, will explain the failure to reach an

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<sup>2</sup> The original six NGOs were: Handicap International (France); Human Rights Watch (US); Medico International (Germany); Mines Advisory Group (UK); Physicians for Human Rights (US); and the Vietnam Veterans of America Foundation (US).



agreement between the US and pro-ban advocates during the global campaign to ban landmines as represented in the negotiated Ottawa Convention.

### **Structure of Analysis**

The analytical framework used in this study relies on certain theoretical assumptions. One such parameter, underlying much of the literature concerning negotiation analysis, presents negotiation events as monolithic models (Raiffa, 1982). This model defines the negotiating approach as one where “all members of a negotiating team are working to advance the same interests and speak with one voice” (Starkey et al., 1999: 36). While the monolithic model supports the analysis of much of the research concerning the campaign to ban landmines, such as studies of norm creation through “like-minded” coalitions of middle power states and NGOs or the influence of transnational advocacy networks in human security, it does not fully present the actual negotiation dynamics that were present during the global campaign, especially during the negotiations associated with the Ottawa Process.

To capture the unique negotiation dynamics of the global campaign to ban landmines, this study assumes a *heterogeneous* model of negotiations, which holds that “different members of a negotiating team hold different interests, which may be in conflict with one another” (Starkey et al., 1999: 37). This analytical parameter is vital because it speaks to the reality of post-Cold War multilateral negotiations. Since the Ottawa Process is offered as a “new model of diplomacy,” it should be analyzed within this context (Davenport, 2002).

Negotiation analysis offers the opportunity to analyze the Ottawa Process and the global campaign to ban landmines in its proper context, that of a post-Cold War, multilateral/multiparty negotiation seeking an agreement to control a conventional weapon. Concepts within negotiation theory will be used to support the analytical approach to understanding why the US

and the ICBL failed to achieve agreement on how to address and solve the global concern of anti-personnel landmines.

### **Definition of Terms**

Before presenting the analytical framework of this study, definitions of terms are presented for clarification of the analysis. Iklé defines *negotiations* as “a process in which explicit proposals are put forward ... for the purpose of reaching agreement on an exchange or on the realization of a common interest where conflicting interests are present” (Iklé, 1964: 3-4). In other words, negotiations are processes in which relevant participants engage in constructive interactions with the initial goal to reach mutual agreements to solve an acknowledged problem in which they each hold common, as well as, divergent interests and issues (Gray, 1989: 25; Fisher et al., 1991: xvii; Zartman, 1991: 65; Young, 1991: 1). The complexity and dynamics of this case require further explanation of several terms within these definitions. The *process* analyzed in this case includes the negotiation strategies and tactics that participants decide to advance during their efforts towards solving the problem at hand. Nierenberg defines *strategies* as “comprising the techniques used in the actual process negotiation” and *tactics* as “devices used to implement the strategy” (1981: 109). Rubin et al., recognizing the difference in scope, define *strategies* as “a set of [macroscopic] objectives or ends” and tactics as “the [relatively microscopic] means to these ends” (1994: 4). In deference to Nierenberg and Rubin et al., this study offers a combination of these definitions and defines *strategies* as “the techniques used to accomplish negotiation objectives” and *tactics* as the “specific devices and means” to achieve them. The complexity of the global campaign to ban landmines is mostly a consequence of the large number of relevant participants that have a stake in any solution to the landmine problem. Within the limitations and purpose of this study, *relevant participants* are defined as those

closely associated with the “pro-ban” position during the campaign, such as core organizations of the ICBL, certain middle-power states, and other key advocates of the “pro-ban” position; as well as, those associated with the US position, to include but not limited to, key governmental organizations, such as the US Department of State and the US Senate.

In respect to the premise that a negotiated agreement between pro-ban advocates and the US was possible during the global campaign to ban landmines, it is important to understand that certain strategies and tactics were necessary in order for this to occur. First, for negotiations to occur, an acknowledged problem must be recognized amongst the participants. If there is no realization of the common problem, there is no need to negotiate. One argument this study offers is that there are specific strategies and necessary tactics that must be implemented in negotiations to ensure the participants develop this *acknowledged problem* properly in order to move towards a *mutual agreement*. Secondly, the participants must, to ensure reaching a *mutual agreement* during the negotiations, recognize and understand that each of them have specific interests and issues related to the problem and that in order to move forward towards a solution, be flexible and open enough to comprehend and accept both the commonalities between them, as well as, any differences, and be willing to work them out.

### **Choosing Negotiating Strategies**

Fisher et al. argue that every negotiating participant has two main concerns in negotiations. One is the concern for and importance placed in the *substantive* aspect of the negotiations and the other is in the importance of the *relationship* participants wish to pursue with the other parties in the negotiations (1991: 19-20). A Relationship Concerns/Substance Matters (RSM) model (Figure 1-1) is presented to assist in understanding the specific negotiation strategies and tactics chosen by the participants of the global campaign to ban landmines. The

RSM portrays the negotiating strategies available to each participant with these concerns as: avoidance; competition; accommodation; and collaboration (Lewicki et al., 1996: 57). With respect to the model, this study, however, describes and explains how the negotiating strategies and tactics that closely match the RSM's *lower-right quadrant*, with low emphasis on relationship factors and a high emphasis on substantive matters, were employed to a large extent by both the US and the pro-ban advocates and why this approach severely constrained the probability of a negotiated agreement. For example, the use of “shock” media and “shame” tactics, positional bargaining, non-consensus rules of decision-making, and, marginalization of certain participants were all competitive tactics that characterize *distributive* strategies of competition and not collaborative, problem-solving efforts. Also, this study will offer that had more collaborative, *integrative* strategies, such as those associated with the RSM's *upper-right quadrant*, which emphasize a high importance on both relationship factors and substantive matters, been employed by campaign participants, a negotiated agreement was likely possible between the US and the pro-ban ICBL. For example, humanitarian de-mining was a key issue for both the US and certain NGOs, such as the US State Department and Halo Trust, in solving the global landmine crisis.

### **Analytical Framework**

Accepting that participants in fact wanted to reach an agreement to solve the landmine problem, this study will show that any agreement between the US and pro-ban advocates was destined to collapse because the negotiation strategies and tactics that the participants chose to use hindered their efforts to reach a negotiated agreement. Applying negotiation theory as a foundation for analysis, this study seeks to explain “why an agreement between the United States and pro-ban advocates was not reached during the international campaign to solve the global

landmine problem?” This study thus elaborates on relevant and common concepts offered in negotiation theory. To guide the analysis of the study, the following 11 factors constitute the analytical framework used to explain and answer the research question:

1. Definition of problem or crisis must be clear and agreed upon
2. Antagonistic framing of the problem, such as *negotiable* and *non-negotiable* framing of interests, if combined, make it difficult to reach an agreement
3. The use of contradictory experts hinders joint-fact finding efforts
4. Future working relationships should be considered vital to solving the landmine problem
5. Coalitions of *like-minded* States marginalizes *unlike-minded* States
6. Integrative and not distributive bargaining strategies should be utilized by participants as much as possible
7. Incompatible / contentious strategies tend to hinder joint-problem solving efforts
8. A satisfactory forum for negotiations must be selected and agreed upon by participants
9. Process roadblocks, such as decision-making rules and deadlines, must be held to a minimum
10. Refusal to negotiate and all-or-nothing approaches are contentious tactics that hinder joint-problem solving efforts
11. Failure to overcome participant BATNAs (Best Alternative to a Negotiated Agreement) counters negotiation efforts to reach viable solutions

The framework above, used in this study to analyze the global campaign to ban landmines, is comprised of numerous elements, generally corresponding with the chronological-phase model used as a foundation in the design of the study. This does not diminish the utility of the framework and otherwise provides a useful model to determine why a negotiated agreement was not reached between the US and pro-ban advocates (Randolph, 1966; Gray, 1989; Dupont and Faure in Kremenyuk, 1991; Hampson and Hart, 1995). The elements of the model focus on establishing an analysis that will show the majority of negotiation strategies and tactics used by

the participants during the campaign, in efforts to solve the global landmine problem. were distributive and not integrative in nature.

The four broad elements of the framework above are: (1) *Substantive matters* (factors 1-3) – which focus on defining and acknowledging a problem and its possible solutions (2) *Relationship concerns* (factors 4 and 5) – which focus on identifying relevant participants and problem solvers prior to the actual negotiations; (3) *Strategic and tactical decisions* (factors 6-9) – which focus on the development and recognition of the interests and issues, as well as, the procedural policies of the negotiations; and (4) *Accomplishment of agreement* (factors 10 and 11) – which focuses on the validity and workability of the negotiated agreements.<sup>3</sup> Thus, the framework allows an interpretation of the landmine case beyond the majority of research on this topic. For example, it permits an examination beyond that of simply a multilateral negotiation case based solely on the two positions held during the campaign; those being “total ban” and “no ban.” It will show that because the Ottawa Process negotiations were heavily anchored to these two positions, the underlying interests and issues of the parties involved relating to a solution to the global landmine problem were kept from being fully considered during the negotiations-- where a “limited ban” agreement, one that was more universal, was possible. Fisher et al. (1991) support the approach and argue that as a general rule in successful negotiations, the principal actors should “focus on interests, not positions.” In addition, Lax and Sebenius offer that “when the issues under discussion poorly match the interests at stake, modifications of the issues sometimes enable all parties to satisfy their interests better” (1986: 68).

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<sup>3</sup> Brady developed a similar framework to analyze the political aspects of several cases between the US and its allies, friends, and adversaries, offering 15 questions that focused on the background, context, substance, and process of the negotiations (1991: 20-40).

## Methodology

This study will be presented using a combination of descriptive and explanatory research designs. Adler and Clark state that a descriptive study design allows researchers to describe "groups, activities, situations, or events, with a focus on structure, attitudes, or behavior" and also offer that the goal of explanatory research is to "explain why subjects vary in one way or another" (2003: 13-14). The global campaign to ban landmines offers a unique case study into the negotiation behavior of States, international and non-governmental organizations in working together to solve a global crisis. This "hybrid" design also incorporates elements of several analytical approaches to negotiations, such as coalitional, process, and historical analysis approaches through its focus on the relationships between participants, the choices of strategies and tactics used, and the chronological format of the various phases of the campaign in the design (Lax and Sebenius, 1986; Lax and Sebenius in Young, 1991; Freymond, Pruitt, Sebenius and Zartman in Kremenyuk, 1991; Zartman, 1991). This study is structured in a chronological format that begins with the pre-negotiations phase of the global campaign, moves through the actual negotiations and finishes with a negotiated agreement. The time frame of the case study extends from the early 1990s to December 1997.

This methodology allows for the development of a new, clearer and more accurate description of the actual events of the global campaign to ban landmines. The unit of analysis is the negotiation strategies and tactics that were embraced by the US and pro-ban advocates during this time as developed from the framework. For the unit of observation, the study relies on archival documents to explore and analyze the actual statements of the negotiating participants and resulting organizational documents in order to minimize interpretive biases that can occur in qualitative studies. To support the explanatory aspect of this approach, collected data will be

analyzed and used to show the rationale implied in the principal actors' strategies, tactics and decision choices as they were implemented during the campaign.

The data in this study comes from several primary sources. One source is interviews conducted by the researcher with key members of principal organizations involved in the negotiations of the global campaign to ban landmines. The interviews include in-person, electronic mail, and telephone modes of data collection. This approach is used to best capture the opinions and statements that reflect the actual negotiation positions, interests, issues, strategies, and tactics of each respective organization during the global campaign. These interviewees provide first-hand knowledge about the campaign and are significant in understanding the negotiation strategies and tactics used during the Ottawa Process. These sources include, but are not limited to, interviews with US governmental agency personnel to include the Department of State, Office of Weapons Removal and Abatement (WRA), the Department of Defense and former US Ambassadors and interviews with key NGO individuals personally involved in the ICBL negotiations during the timeframe of this study. In fact, this case study, due to its multinational and multilateral characteristics, allowed and provided for sufficient transparency of numerous documents, records, and transcripts for analysis of participants' specific positions on various mine action interests and issues; although as expected, some of the interagency dialogue and private meeting transcripts, as in the US case, could not be included in the study.

The second source of primary data is archival documents. These consist of "official" governmental, non-governmental, and UN documents, to include but not limited to, briefings, statements, press releases and transcripts of the principal campaign participants. This data is instrumental in documenting the negotiation strategies and tactics used during the campaign



which will in turn offer further support for the premise that not only was an agreement possible, but that these particular strategies and tactics frustrated the negotiations and led to the failure of the US and pro-ban advocates to reach an agreement on how to solve the global landmine problem.

### Summary

In this introductory chapter, I provide a summation of my dissertation research approach concerning the negotiations of the global campaign to ban landmines prior to the initial signing of the Ottawa Convention in December, 1997. The research design and analytical approaches used in this case study are discussed. An in-depth analysis of the negotiation dynamics is provided in the subsequent chapters. Chapter 2, *Literature Review and Theoretical Framework*, covers the associated literature review and theoretical basis for the analytical framework of the study.

The next five chapters explore and analyze the substance matters, relationship concerns, negotiation strategies and tactics, and the negotiated agreement of the global campaign to ban landmines. These empirical chapters will provide analysis according to the proposed framework. Chapters 3, 4, 5, and 6 analyze both the US and pro-ban advocates' strategies and tactics used during their pre-negotiation and negotiation phases. Chapter 7, *The Diplomatic Conference to Ban Landmines*, analyzes the US and pro-ban advocate's strategies and tactics used during the actual negotiations that took place in Oslo, Norway in the fall of 1997 and those prior to the signing ceremony in Ottawa, Canada on 4 December 1997. Finally, Chapter 8 presents the findings and limitations of the analysis of the case study and offers recommendations for future US and NGO negotiators and policy leaders seeking solutions to an increasing number of global problems.

<b>Relationship Concerns</b>	<b>High</b>	<b>ACCOMMODATION</b> (Yielding, Lose to win)	<b>COLLABORATION</b> (Integrative, Win-Win, Fostering, Creating Value, Problem-solving)
	<b>Low</b>	<b>AVOIDANCE</b> (Withdrawal, Lose-Lose)	<b>COMPETITION</b> (Distributive, Win-Lose, Forcing, Claiming Value, Contending)
		<b>Low</b>	<b>High</b>
		<b>Substantive Matters</b>	

Figure 1-1 Relationship Concerns/Substance Matters model: Theoretical framework identifying the considerations in which negotiation participants choose various strategies (adapted from Savage et al., 1989 and Lewicki, 1996).

## CHAPTER 2 LITERATURE REVIEW AND THEORETICAL FRAMEWORK

### Introduction

The global campaign to ban landmines spanned the decade of the 90s and the negotiations resulted in the creation of the Ottawa Convention, a document signed by over 120 states in December 1997. The United States was not a signatory to the Convention.<sup>4</sup> The focus of this study is the negotiation processes and events between the International Campaign to Ban Landmines (ICBL), a transnational network of non-governmental organizations (NGOs), key pro-ban States, and the United States government (US) that transpired during the global campaign to ban landmines in the 1990s. All of these actors shared a common interest: to minimize harm to non-combatants in times of and as a result of military operations. However, even with this common interest, an agreement was not reached between the ICBL, the pro-ban advocates, and the US when they attempted to obtain a solution to the global landmine problem. Machiavelli once said:

It must be considered that there is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new order, this lukewarmness arising partly from fear of their adversaries, who have the laws in their favor; and partly from the incredulity of mankind, who do not truly believe in anything new until they have had the actual experience of it (1950: 21).

His statement is suitably prophetic if regarded as a depiction of the global campaign to ban landmines and its negotiation participants. The *reformers* in this case are the total ban advocates of the Ottawa Process, who sought to change the way the international community approached its negotiations on global topics. The *old order* was represented by the limited ban advocates,

such as the US, who had benefited from traditional international forums of consensus negotiations. The *lukewarm defenders* were, of course, the landmine victims themselves, who had not had a voice in the international arena concerning landmines and would be skeptical of any solutions to a problem they saw as being caused by those seeking the solutions.

As mentioned in the Introduction chapter, this study uses concepts offered in negotiation theory to guide the analysis. In order to answer the question "why was an agreement between the US and pro-ban advocates not reached during the international campaign to solve the global landmine problem," the following framework of causal factors is used:

- No clear definition of the global landmine *crisis* was ever jointly sought or resolved between participants.
- Positional bargaining strategies overshadowed any other landmine-related “interests and issues” of negotiation participants.
- Incompatible / Contentious strategies used - e.g., simultaneous competitive (distributive) and cooperative (integrative) strategies and tactics used by negotiating participants were incompatible for possible agreement; shame tactics used by ICBL ban proponents meant to alienate negotiators.
- Antagonistic framing of the landmine problem - The ICBL and pro-ban advocates framed the global landmine crisis as a “humanitarian” problem while the US framed the crisis as a “security” problem.
- No satisfactory forum for landmine negotiations selected - working outside of the UN system limited State cooperation, while working within the UN system hindered ICBL participation.
- Process problems - *consensus* leads to a better solution than voting; *deadlines* hinder progress.
- Future working relationship – the campaign participants (ICBL, pro-ban states, and US leaders) did not appear overall too concerned about the status of future dealings with each other.

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<sup>4</sup> As of December 2007, 10 years after the Ottawa Convention was opened for signature, the US had still not signed the Convention.

- Coalitions of “like-minded” states\_– this tactic had the result of marginalizing *unlike-minded* states.
- Contradictory experts – Both US and pro-ban advocates offered experts to support their own positions.
- Refusal to negotiate and all-or-nothing approaches - US withdrawal from Ottawa Process negotiations; ICBL refusal to work within the UN system; and *all-or-nothing* approaches to solution options
- US BATNA (Best alternative to a negotiated agreement) was not over come – CD/CCW remained a practical and realistic alternative for the US to deal with the global landmine problem.

This research is an important addition to current literature because it makes use of a theoretical framework that is not typical of International Relations research, but more commonly found in business negotiations analysis. This approach will lead to a better understanding and insight into the unique cooperation and conflict dynamics and dilemmas that prevailed during these negotiations. For example, areas of interest, while divergent and often politically significant, included issues where negotiated agreements could be reached--in the case of the NGOs, it was the elimination of a global humanitarian crisis and for the US, a major issue of force protection and security of troops in battle while minimizing unnecessary harm to non-combatants.

### **Negotiation Analysis**

#### **Analytical Approach**

The “hybrid” design of this study combines elements of coalitional, process, and historical analysis approaches through its focus on the relationships between participants, the choices of strategies and tactics used, and the chronological format of the various phases of the campaign (Lax and Sebenius, 1986; Lax and Sebenius in Young, 1991; Zartman, Pruitt, Freymond, and Sebenius in Kremenyuk, 1991; Zartman, 1991). As mentioned in the previous

chapter, the analytical approach for this study also combines process and integrative analysis approaches as defined by Zartman (in Breslin and Rubin, 1991). This blended design allows analysis of the *strategies and tactics* used by the participants during each “phase/stage” (Touval, 1991; Hampson and Hart, 1995) of the campaign negotiations; in other words, it supports a stance that “negotiation strategies and tactics matter” in explaining negotiation outcomes in international relations.

### **Stages of Negotiations**

With only slight variations among scholars, negotiations are typically divided into several stages: a pre-negotiation phase; the actual negotiations; the agreement phase; and an implementation/verification phase. However, scholars and practitioners often differ on transition points between negotiation phases and also on specific definitions of each phase. For example, Touval asserts that pre-negotiations are usually the period when participants “learn about the problem, develop an agenda, and search for a formula or general framework within which an agreement can be reached” (1991: 352). Hampson and Hart offer that participants must “commit and agree” to negotiate during pre-negotiations; although they add the “agenda debate” and “issue definition” as characteristics of the “negotiation” stage (1995: 26). In view of these variations, the phases used in the empirical analysis of this study were selected to provide the clearest possible picture of events.

The research inquiry of this case study seeks to explain why an agreement was not reached between the US and pro-ban supporters as represented in the final document referred to in this study as the “Ottawa Convention.” This failure to reach an agreement occurred in the earlier negotiation stages, therefore, the analysis will not explore the implementation/verification phase which officially began after the December, 1997 signing ceremony in Ottawa, Canada.

Therefore, to avoid confusion, the characteristics of each phase will be defined and used throughout the study.

### Theoretical Review

Whether the global campaign to ban landmines is viewed as a success or not is extraneous to this study, which specifically focuses on the negotiations and the failure of those negotiations to reach an agreement between the ICBL and the US in solving the landmine crisis. This study will show that contrary to other theoretical approaches, several of which will be offered for comparison, negotiation theory offers the best analytical tools to accurately examine the global campaign to ban landmines--a post-Cold War, multilateral negotiation, where participants sought a viable agreement to simultaneously control a conventional weapon and solve the humanitarian crisis caused by its use.

The three basic tenets of *realism* state that (1) states are the principle actors in international politics; (2) states' behavior is influenced by their "external environment, not by their internal characteristics;" and (3) states' main focus is on power politics and their standing relationship among other competing states (Mearsheimer, 2001: 17-18).<sup>5</sup> Indeed, state interests and relative gains are at the center of realist theory. Thus one could hold that as the United States did not sign the Ottawa Convention, then it was only because it was not in their best interest to do so and that their concerns with relative gains, or in this case, an relative decrease in its own conventional weapons stockpiles, and its military standing among other key states, held quite substantial weight during negotiations. At first glance, a *realist* approach would appear to adequately explain why the US did not sign the Ottawa Convention. But this approach falls

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<sup>5</sup> Also vital to *realism* are its five basic assumptions: the international system is anarchic; states ("great powers") inherently possess some form of military capability; uncertainty about other states' intentions is always a given; state survival is paramount; and states are rational actors (Mearsheimer, 2001: 30-31).

short in several areas. For instance, realism does not explain the influence of NGOs and transnational advocacy networks in getting middle powers to aggressively agree to support the Ottawa Process and its associated Convention (Matthew in Rutherford et al., 2003). Also, realism takes the monolithic view that all states are the same *black box* and will maintain similar interests and issues while engaged in international politics and negotiations.

The premise that all United States behavior in international relations can be easily explained just because the US is such a unique political entity is not new or uncommon in academic literature, although reaching an agreement on the exact details of what makes it particularly *exceptional* would be quite complicated (Tocqueville, 1832; Koh, 2003; Ignatieff, 2005). In distinguishing the types of American exceptionalism, Ignatieff offers that *US exceptionalism* consists of three main elements, in which the US (1) “signs on to international human rights and humanitarian law conventions and treaties and then exempts itself from their provisions by explicit reservation, nonratification, or noncompliance;” (2) “maintains double standards: judging itself and its friends by more permissive criteria than it does its enemies;” and (3) “denies jurisdiction to human rights law within its own domestic law, insisting on the self-contained authority of its own domestic rights tradition” (Ignatieff, 2005: 3). One variation of *US exceptionalism* applicable to the global campaign to ban landmines is called “exemptionalism.” It is defined as American support for “multilateral agreements and regimes, but only if they permit exemptions for ... US practices;” however, the US is not the only state to pursue exemptions and the practice is quite common in multilateral treaty agreements (Ignatieff, 2005: 4). In fact, this variant of *US exceptionalism* was evident in the US negotiations strategies and tactics used during the Oslo negotiations and will be further discussed in Chapter 7, *The*



*Diplomatic Conference to Ban Landmines* (Williams and Goose, 1998: 44; Newsom, 2005; Ignatieff, 2005: 4).

While the *US exceptionalism* approach offers an intriguing elucidation of the global campaign to ban landmines, it falls short in fully explaining why an agreement between US negotiators and pro-ban advocates was not reached. The fact that the US held firm with its Korean exception for the Ottawa Convention during the Oslo negotiations is in and of itself immaterial to a non-agreement explanation. More significant is the ICBL and pro-ban advocates' decision to demand a distributive negotiations process rule that insisted on "no exceptions, no reservations, and no loopholes" in trying to solve such a tragic global crisis (Williams and Goose, 1998: 44; Newsom, 2005). Consequently, another analytical tool would likely be more useful in breaking open and exploring these *black boxes*—states and NGO networks included—finding factors that may explain the lack of total agreement between participants in the negotiations toward a globally supported solution to the crisis.

While early US leadership was instrumental in introducing the topic of landmines into international political agendas through its specific moratoriums on exports, the US choice to negotiate the arms control aspects of banning landmines in a forum such as the Conference on Disarmament kept them from the *fast-track* negotiation processes taking place between other states and NGOs during the Ottawa Convention negotiations. The achievement of the landmine ban campaign and the Ottawa Process to garner the support of over 120 countries at the Ottawa Convention signing ceremony in Dec 1997 is a testament to the level of cooperation between states in the international arena in solving the landmine crisis. As will be noted in this study, a unique element of that achievement was the inclusion of NGOs into the international negotiations during the campaign. In terms of explaining cooperation between states, *liberal*

*institutionalism* differs from *realism* in several areas. Realists argue that states “constantly monitor whether their position in the international power hierarchy is stable, declining or on the rise, fearing decline above all” and are “skeptical about international cooperation” because “if states are worried about relative gains, they will forego cooperation if they fear their gains will be less than those that accrue to others” (Reus-Smit, 2001: 212). In contrast, neoliberals perceive states as “actors that will entertain cooperation so long as it promises absolute gains in their interests” (Reus-Smit, 2001: 212). Also, a *liberal institutionalism* analytical approach holds that “cooperation between states can be enhanced” in an anarchic international system through regimes that “constrain state behavior by formalizing the expectations of each party to an agreement where there is a shared interest” and institutions that “assume the role of encouraging cooperative habits, monitoring compliance and sanctioning defectors” (Burchill, 2001: 39-40). So while *liberal institutionalism* offers a better explanation of the level of cooperation evident at the Ottawa Convention signing ceremony, it too falls short of explaining the lack of an agreement between the US and pro-ban advocates, given similar interests in the protection of non-combatants and the level of influence of NGOs throughout the campaign.

The strength and significance of explanatory weight given to *realism*, *US exceptionalism*, or *liberal institutionalism* to describe the global campaign to ban landmines is no doubt disputable. However, as this study will show, there are critical factors involved in the landmine ban campaign that generate a need for a better explanation for why the US did not sign the Ottawa Convention, especially given the initial US aggressiveness in getting the landmine issue onto the international political agenda and then ending with their failure to reach an agreement with the ICBL and pro-ban advocates during the negotiations. This is also evident if one considers the emphasis placed on actual negotiations during the campaign, as well as, the

value placed by participants on the minimization and reduction of unnecessary harm and suffering to non-combatants caused by landmines. With that said, negotiation theory will be employed as the appropriate analytical approach to understanding why the US and the ICBL failed to achieve a negotiated agreement on how to address the global concern of anti-personnel landmines.

### **Strategic Methods and Tactical Means of Negotiations**

The relatively narrow focus of the global landmine crisis presented multilateral participants an opportunity for a joint problem-solving endeavor to seek amiable solutions. As such, the negotiation decisions and actions by participants during the campaign would show whether their approaches to the negotiations were appropriate for reaching a negotiated solution to the global landmine problem. As offered in the previous chapter, this study defines *strategies* as “the techniques used to accomplish negotiation objectives” and *tactics* as the “specific devices and means” to achieve them. An often employed way to depict negotiations is to describe the bargaining strategies used by the participants, of which the two dominant ones are *distributive* and *integrative* strategies. Research concerning these two dominant bargaining strategies is as varied as it is abundant. For example, Walton et al. (1994) describe *distributive/integrative* strategies as *forcing/fostering*; Lax and Sebenius (1986) employ the terms *claiming value/creating value* to describe *distributive/integrative* strategies, respectively. Fisher et al. take a slightly different approach and depict *distributive* bargaining as *positional* bargaining and offer the concept of *principled* negotiations (“negotiation on the merits”) to describe a strategy that is closely related to an integrative bargaining approach (1991:10).

In principled negotiations, participants are seen as joint problem-solvers; problems are separated from the individual people involved in the negotiations; focus is on relevant interests

and not participant's positions; options for mutual gains are pursued; and the negotiation solutions are based on agreed upon, objective criteria (Fisher et al., 1991: 13-92). This study elaborates and expands upon the concepts of principled negotiations in its analytical framework. In general, distributive bargaining is associated with competitive negotiation strategies and tactics and integrative bargaining with collaborative ones.

### **Distributive and integrative bargaining**

Distributive bargaining strategies and tactics are distinguished by their competitive aspects. They are usually associated with a win/lose situations in which the gains for one participant are at the direct expense of another. As such, participants who use distributive strategies and tactics will use these strategies to maximize their outcomes. These strategies are focused on the substantive aspect of the negotiations more than the relationship concerns, in other words, participants who use distributive strategies are not so concerned with future relationships with the other participants. Lewicki et al. state that distributive bargaining strategies are "frequently ... counterproductive and costly to use [and] often they cause negotiators to focus so much on the differences between negotiating parties that they ignore what the parties have in common" (1994: 49).

In the case of the negotiations of the global campaign to ban landmines, the drawbacks of distributive bargaining strategies are multiplied by the campaign's *multi-party/multi-issue* nature. Fisher et al. describe the situation like this:

If some 150 countries are negotiating, as in various United Nations conferences, positional bargaining is next to impossible ... reciprocal concessions are difficult: to whom do you make a concession? Yet even thousands of bilateral deals would still fall short of a multilateral agreement; in such situations, positional bargaining leads to the formation of coalitions among parties whose shared interests are often more symbolic than substantive.

Because there are many members in a group, it becomes more difficult to develop a common position ... once they have painfully developed and agreed upon a position; it becomes much harder to change it. Altering a position proves equally difficult when additional participants are higher authorities who, while absent from the table, must nevertheless give their approval (1991:7).

Accordingly, to counter such a dilemma, negotiation participants should "focus on interests, not positions" (Fisher et al., 1991: 40-55). As will be discussed in this study, the positional bargaining strategy of the campaign participants, i.e., the *total ban* position held by the ICBL and pro-ban advocates and the *limited ban* position held by the US, was not conducive to achieving a mutually acceptable agreement in relation to solving the global landmine crisis. This suggests that an agreement would be possible by looking past these positions and focusing on the common *interests* of the participants, in particular, the *humanitarian* interest of protecting non-combatants and minimizing harm to innocent civilians.

Integrative bargaining strategies and tactics are synonymous with win/win negotiations. In these situations, the negotiated outcome reflects an expanded pie where gains for one participant are not in direct conflict to the gains of the other. In contrast to distributive bargaining, integrative bargaining situations are collaborative in nature and are "often initiated when the parties know that they want to establish long-term goals for particular outcomes and for the relationship" (Lewicki et al., 1996: 65).

In joint-problem solving negotiations, participants search for common goals and objectives and will typically pursue efforts that support the cooperative behavior necessary to achieve them. For integrative bargaining to succeed, "there must be a high degree of trust, openness, and cooperation" and the communication and information flow between participants should be "open and accurate" (Lewicki et al., 1996: 65). True collaborative negotiations are thus more difficult

to accomplish because greater efforts must be made by participants to meet the substantive matters and relationship concerns of all the participants of the negotiation.

### **Positions, interests, and issues**

The negotiation theory framework used in this study also allows for an interpretation of the Ottawa Process that goes beyond the majority of the literature on this topic. In particular, that of a multilateral negotiation based solely on the two positions of a *total ban* versus a *limited ban* on landmines. As stated above, as a general rule in joint-problem solving negotiations, the principal actors should *focus on interests, not positions*. The following anecdote, of which several versions are commonly used in practical negotiation teaching, illustrates how during negotiations, it is best for participants to focus on their own and the other's interests and issues and just not on each other's position:

Two sisters began arguing over an apple. Although each would like to have the whole apple, they quickly assumed that a 50-50 split was their best and only outcome to adequately solve the dilemma of who got the most from the apple; so, they split the apple in half and divided the spoils of their negotiating efforts between them.

Unfortunately, the sisters were not skilled negotiators and thus their decision was not the best or only solution to their dilemma. As it were, the first sister, whose actual interest in the apple was to merely eat it because she was hungry, proceeded to peel her half of the apple, throw away the peel, and consume her portion of the fruit. The second sister, whose sole interest was in cooking, also peeled her half, but threw away the fruit portion and used the skin to bake an apple pie. Had each sister sought to explore the other's *interest* in the apple and not just her own *position* in the argument over how to split the fruit, both sisters would have increased their portion of the apple in regards to satisfying each one's interests and thus ensuring a more successful outcome to their negotiation efforts. Negotiation theory provides the necessary tools

to construct an analytical framework that will be useful in determining why negotiators of the landmine campaign failed to reach a fitting agreement.

One area of analysis that could point to the possibility of negotiated solutions to the global campaign to ban landmines is in the framing of the problem; in other words, why do the NGOs view the landmine campaign a humanitarian issue and the military as a security issue? This study does not explore why participants had *particular* interests or issues, only that they did and these were instrumental in understanding their approaches during the negotiations and the possibilities for a joint solution to the global landmine problem. The NGOs believe the only solution is the uncompromising, total ban on all anti-personnel mines. From a security framework, the position held by the US military, this is not practical because most military organizations still regard landmines as very cheap and effective weapons in defending troops and non-protected land against insurgents or attacking armies. The particular framing originates from the values and norms within the organizational culture of the actors involved and thus drive their particular position on the landmine issue. Finnemore states, “norms are shared and social; they are not just subjective but intersubjective; norms by definition concern behavior” (1996: 22).

With that said, important in minimizing bias in the interpretive analysis of this study is the criterion used to determine what qualifies as the *interests* and *issues* that are integral to the principal actors' bargaining position. Lax and Sebenius offer that “when the issues under discussion poorly match the interests at stake, modifications of the issues sometimes enable all parties to satisfy their interests better” (1986: 86). Table 2 illustrates the possible *interests* and *issues* available to negotiators formed by looking beyond the two positions held by participants during the global campaign to ban landmines. As will be presented in this study, some form of

consensus, whether in values or norms, would need to take place between the pro-ban advocates and the US before the US would consider signing the Ottawa Convention.

### **Best alternatives to a negotiated agreement**

The most common reason to enter into negotiations with another party is to "produce something better than the results ... [obtained] without negotiating" (Fisher et al., 1991: 100). The goal is to determine by what standard participants should measure whether a negotiated agreement is "something better" for them. This is clearly a driving force for the ICBL during the Ottawa Process campaign negotiations as States, for the most part, influence and control the use, production, export, transfer and demining efforts (i.e. contributions of monies or training of NGOs) concerning anti-personnel landmines.<sup>6</sup> One concept in negotiations theory often used to determine the degree of accomplishment of an agreement between participants is whether or not they have identified and considered the *best alternatives to a negotiated agreement* (BATNAs). BATNAs are the "standards against which to measure potential agreements" and are the "only standards which can protect [participants] from accepting terms that are too unfavorable and from rejecting terms [which would be in their] interest to accept" (Lax and Sebenius, 1991: 99; Fisher et al., 1991: 100). The flexibility offered by BATNAs increases the chance of more creative solutions being sought during negotiations. Thus, it is vital for parties to not only identify their own BATNAs, but to also understand and at least consider, the other negotiating parties' BATNAs. Negotiated agreement alternatives played a key role in the outcome of the ICBL, pro-ban states, and US leadership negotiations during the ban campaign. In other words,

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<sup>6</sup> Not considered in this study, although active participants in reference to the landmine crisis, are non-state actors and criminal organizations which do not have a voice in international negotiation forums.



"moves *away from the table* to shape the parties' alternatives to agreement" were just "as or more important than tactics employed *at the table*" (Lax and Sebenius, 1991: 97).

### **Multilateral Negotiations**

Lall defines *international negotiations* as the "process of consideration of an international dispute or situation ... with a view to promoting or reaching among the parties concerned or interested some understanding, amelioration, adjustment, or settlement of the ... situation" (1966: 5). In addition, he states that the "parties to a dispute or situation which becomes the subject of international negotiation must give evidence at some stage of the negotiations of a degree of willingness to make some movement, either apparent or real, from their original or starting positions" (1966: 297). In contrast to common bilateral negotiations between states, the global campaign to ban landmines was a multilateral negotiations effort between states, international organizations and non-governmental organizations/networks.

In light of this characterization, Zartman describes multilateral negotiations as *multiparty* to indicate that the negotiation will include "entities each with interests and interest groups of its own to underpin its separate position" and *multi-issue* to describe the nature and "texture in the negotiations because not all of the many parties have the same intensity of interest on any issue, any more than they have the same substantive interest" (1994: 4-5). Thus, the complexity and coalitional attributes of multilateral negotiations allow them to be analyzed in useful ways (see Rubin and Brown, 1975; Lax and Sebenius in Young, 1991; Zartman in Kremenyuk, 1991; Keck and Sikkink, 1998).

In general, negotiation participants attempt to "arrive at decisions on issues ... to reduce their complexity and make them ... manageable;" in fact, a key objective in the outcome of multilateral negotiations is "to harmonize national legislation or to establish rules that can be

applied by and to states” (Zartman, 1994: 6).<sup>7</sup> The ICBL leadership was likely not unfamiliar with this obstacle, as NGOs (other than the International Committee of the Red Cross) had not been parties to international negotiations within the United Nations system. Thus, a negotiations theory framework offers the opportunity to analyze the Ottawa Process and the global campaign to ban landmines in the context of a post-Cold War, multilateral, multiparty, multi-issue negotiation seeking an agreement to control a conventional weapon.

### **Global Campaign To Ban Landmines**

The global campaign to ban landmines presents a unique opportunity to study the dynamic relationship that exists between States and non-governmental organizations. The majority of research and academic literature concerning the global campaign to ban landmines seeks to answer such questions as: How was the problem of landmines put onto the international agenda? What role did NGOs, transnational advocacy networks and middle power states play in the campaign to ban landmines? What IR theory explains why this happened? The underlining connection of this research agenda is that it all seeks to explain the campaign successes--but what of its failures? While research concerning the failure of the global landmine campaign is available, it is far from complete. By relaxing the premise that the global campaign to ban landmines was a success, research into new questions of inquiry can be fully explored. Such questions might include, but are not limited to: Why have nearly 40 states, representing over 55% of the world’s population, *not* signed the Ottawa Convention, the negotiated agreement from the global campaign?; and in the decade since the Ottawa Convention was open for

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<sup>7</sup> Packaging, linkages, and trade-offs, all of which are basic devices of the negotiation process, are also used to create coalitions among competing and similar positions, interests and issues (Zartman, 1994: 6).

signature, why are landmines still a global problem, claiming approximately 8-10,000 new victims each year?

Literature published in the early 1990s, prior to the Ottawa Process negotiations, attempted to document the global landmine problem as a crisis (Arms Project, 1993; DoS, 1994; Cahill, 1995; Roberts and Williams, 1995). Of these, the most significant was the US State Department's 1994 report to Congress entitled, *Hidden Killers*. This was the first report by a state government to attempt to document the global landmine problem; unfortunately, as is discussed later in this study, the statistical data presented in the report in regards to the depth and extent of the *crisis* was based on assumptions and speculations and not necessarily on actual known data. This eventually raised debates within the campaign about over-inflation of the numbers of employed anti-personnel landmines and questions about the validity of solutions presented by key ICBL leadership.

Individual participants directly associated with the landmine ban campaign, both advocates and opponents, have written about their experiences during the negotiations (see Matthew et al., 2004; Williams et al., 2008). This literature has produced practitioner-rich examinations on the subject since the signing ceremony of the Ottawa Convention. One of the better known volumes of work, written shortly after the Ottawa Convention signing ceremony in Dec 1997, is the book edited by Maxwell A. Cameron, Robert J. Lawson and Brian W. Tomlin, entitled *To Walk Without Fear: The Global Movement to Ban Landmines* (1998). Key contributors to the book included: Lloyd Axworthy, Canada's Foreign Affairs Minister during the campaign and founder of the *Ottawa Process*; Jody Williams, co-coordinator of the ICBL and co-recipient of the 1997 Nobel Peace Prize; as well as, other significant governmental and non-governmental participants directly involved in the ban negotiations.

The academic research and literature generated by the campaign to ban landmines is predominantly examined and presented as a *successful* case for the influence and significance of NGOs in international relations. Two major contributions to this literature come from Richard Price's *Reversing the Gun Sights: Transnational Civil Society Targets Land Mines* article (1998) and Keck and Sikkink's book, *Activists Beyond Borders: Advocacy Networks in International Politics* (1998). Price uses the campaign to ban landmines as a case study to examine the "role of transnational nonstate actors working through issue networks to affect how states prepare for and wage war" (1998: 613). Keck and Sikkink's research was broader in scope and examined the impact and influences of transnational advocacy networks by exploring the tactics of persuasion and socialization used by these networks.<sup>8</sup> In their study, Keck and Sikkink identify the five "stages of network influence" as "(1) issue creation and agenda setting; (2) influence on discursive positions of states and international organizations; (3) influence on institutional procedures; (4) influence on policy change in 'target actors' which may be states, ... international organizations, ... or private actors ... and (5) influence on state behavior" (1998: 25).

### Summary

Based on the common interests and issues of the participants and that participants favored an agreement that would solve the landmine crisis, this study proposes that such an agreement between the US and pro-ban advocates was in fact possible. However, the negotiations were destined to breakdown because the specific negotiation strategies and tactics used, as presented in the framework above, mired efforts to reach an agreeable outcome. This chapter presented support for the theoretical concepts and framework for the negotiation analysis used in this

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<sup>8</sup> The authors explore the issue areas of human rights, the environment, and violence against women and the tactics offered include: information politics, symbolic politics, leverage politics, and accountability politics.

study. It also offered several alternative theoretical approaches and described the literature pertinent to the global campaign to ban landmines.

Table 2-1. Positions, interests, and issues

	Position	Interests	Issues
ICBL			
Advocacy supporters	Total ban	Humanitarian	Awareness (public and governmental)  Prohibit: - Use - Stockpiling - Production - Transfer  Support: - Destruction
Deminers	Total ban / Limited ban	Humanitarian / security	- Humanitarian demining - R/D of demining technologies - Protection of NGO members
Victim assistance supporters	Total ban	Humanitarian	- Victim assistance - Mine risk education - Protection of NGO members - Protection of non-combatants
United States			
Congress	- Total ban (e.g. Sen Leahy) - Limited ban (e.g. Sen Helms)	- Humanitarian  - Security	- Export moratorium - Victim assistance - Protection of troops - Protection of civilians
President	Limited	Security / humanitarian	- Protection of troops - Korean exception - Alternatives to APLs - SD/SN “smart” APLs - Support destruction of “dumb” APLs - Use of United Nations forums
Department of State	Limited	Security / humanitarian	- Korean exception - Use united nations forums
Department of Defense	Limited	Security / humanitarian	- Weapon banning precedent - Irresponsible use - Definition of APLs - Demining - Korean security - Protection of troops - Protection of non-combatants

## CHAPTER 3 THE GLOBAL LANDMINE “CRISIS”

### **Political Development of the Landmine Crisis**

The current landmine debate in the US traces its roots back to the late 1980s, however, the use of landmines has been a concern of US leaders for over 140 years. During the Civil War, anti-personnel landmines, commonly known at the time as *land torpedoes*, were introduced by Confederate forces much to the displeasure of Union forces. Although some Confederate generals viewed the employment of these “sub-terra booby traps” as a legitimate tactic of warfare, even the Confederate leadership felt apprehension in using these new weapons (Robbins, 2002). In early May 1862, Secretary of War George Randolph, proclaiming the official policy of the Confederacy for employing land torpedoes, ordered that while “it is admissible to plant shells in a parapet to repel assault, or in a road to check pursuit, it is not admissible to plant shells merely to destroy life and without other design than that of depriving the enemy of a few men (Robbins, 2002).

Despite this guidance, Brig Gen Gabriel Rains, the inventor of this new weapon, continued to plant them without regard to the official policy. They were deployed around houses, shops, and telegraph poles, and hidden in carpetbags and bags of flour. Union officers angrily denounced the land torpedoes as unethical and lambasted the Confederacy for using them. Union Attorney General Edward Bates spoke out indignantly about these “devilish devices” and the Army of the Potomac Commander Major General George McClellan threatened to use prisoners of war to clear minefields (Robbins, 2002). In fact, after the fall of Fort McAllister to Union troops on 13 December 1864, in which land torpedoes played a significant role in the Confederate defense of the fort, Union General William T. Sherman personally gave

orders that the captured prisoners be required to remove the unexploded "infernal machines" (Robbins, 2002).

Throughout US military history, its leaders, both civilian and military, have been concerned with the humanitarian aspects of warfare. This produced a dilemma concerning how to properly achieve US military goals and objectives while maintaining humanitarian aspirations. In the case of landmines, this proved to be a complicated matter. For example, as weapon technology improved over the decades and by the 1970s, the US Department of Defense had begun to replace its stockpiles of *persistent*, commonly referred to as called *dumb*, anti-personnel and anti-vehicle landmines. The persistent *dumb* mines were defined as those that lay active in the ground for decades after they are employed, while *smart* landmines were defined as those that can be set to self-destruct and self-deactivate after a short, pre-determined period of time. In addition to battlefield strategy, the purpose of employing *smart* mines is to prevent enemy use of US landmines against US forces, as well as, to minimize the threat to non-combatants. This is particularly significant because it points to one of the key factors that US leaders would later consider as a cause of the current global landmine crisis—the indiscriminate deployment of these persistent, *dumb* mines.

The US has consistently participated in international efforts that seek to promote, during warfare, the humanitarian aspirations of society. One of these early efforts related to the global landmine crisis is described in Resolution 32/152 adopted by the 1977 United Nations General Assembly (UNGA). According to this resolution, which was twenty years prior to the signing of the Ottawa Convention, the UNGA was convinced then that the “suffering of civilian populations and combatants could be significantly reduced if general agreement can be attained

on the prohibition or restriction for humanitarian reasons of the use of specific conventional weapons, including any which may be deemed to be excessively injurious or to have indiscriminate effects” (UNGA, 1977). Resolution 32/152 paved the way for negotiations on conventional weapons, such as landmines, for the next two years within the United Nations. By October, 1980, the UNGA had negotiated and adopted 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) and its annexed Protocols, of which Protocol II dealt specifically with landmines.

The US signed the original CCW in April, 1982. The CCW subsequently entered into force in December, 1983, after the ratification by 20 states was achieved. A major disappointment for pro-ban advocates during the campaign to ban landmines in the early 1990s was that the US did not ratify Protocols I and II of the CCW until March, 1995. In fact, it was not until May, 1996, that the First Review Conference for the CCW adopted an amended Protocol II. Pro-ban advocates believed the apparent inattention towards the CCW by the US for nearly 12 years helped perpetuate the global landmine crisis. Further discussion on US negotiation efforts within the CCW during this period and the reasons for the US delay in ratification of the CCW and its Amended Protocol II are included in subsequent chapters of this study.

Contrary to the beliefs held by pro-ban advocates during the global ban campaign of the 1990s concerning the earlier position of the US towards anti-personnel landmines, at the signing of the CCW in 1982, the US believed that:

... the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and



reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants (Congressional Record, 1993: S9291).

This statement is of later significance during the negotiations stage because it pointed to other US interests and issues beyond the *security-only* position that pro-ban advocates claimed the US held. However, once the global campaign to ban landmines evolved into a competitive negotiation between participants, i.e., those who held firm to a *total* ban position for anti-personnel landmines and the US's *limited* ban position, other interests and issues that participants may have held were unfortunately overshadowed. This polarization created by the positional bargaining of the negotiators suggested that a mutually agreed upon solution to the global landmines problem would be difficult, though not impossible.

By the end of the 1980s, non-governmental organizations (NGOs), such as the International Committee of the Red Cross (ICRC) and the Vietnam Veterans of America Foundation (VVAFA), already well established in Third World countries supplying humanitarian aid, began recognizing that landmines were not only hindering their own efforts, but were pointing towards a much larger crisis that seemed to be ignored by most of the international community. For US leadership at the time, this crisis was overshadowed by broader, Cold War security concerns, particularly in the areas of nuclear and chemical weapons. President George H.W. Bush did, however, acknowledge US concerns with conventional weapons, hoping for “significant progress in all fields” of arms control but understood that any negotiations were unpredictable (Bush, 1989).

Another key security concern at the time for the US was the talks between North and South Korea. President Bush, quite clearly establishing US security interests in the region, stated:

While the atmosphere has improved somewhat, hard realities remain. North Korea has a very large standing army stationed well forward. It would be far too optimistic at this time to suggest that tensions have been reduced to the point where the deterrence provided by U.S. forces in Korea is no longer needed. At the request of the Republic of Korea, our forces are in Korea to deter aggression from the North. They will remain as long as the Government and the people of South Korea want us to remain and as long as we believe it is in the interest of peace to keep them there (Bush, 1989).

Interestingly, while there has never been any US effort to conceal security interests concerning the Koreas, during the negotiations of the Ottawa Convention nine years later, this security issue became a sticking point for an agreement, much to the disappointment of US leadership.

Although initially engaged in the problem of landmines through the CCW, this new global crisis came to wider US notice through Senator Patrick Leahy's (D-VT) observations and comments after a 1988 trip to Honduras. His visit there led to the eventual formation of the War Victims Fund (later entitled the "Patrick J. Leahy War Victims Fund). In his own words:

... I went to a field hospital ... where I met a young boy who had lost his leg from a landmine. When I asked him which side in the war had put it there, he did not know. 'What difference did it make? Both sides used landmines;' but he was crippled for life, and he was living in the hospital because he had no place else to go. I started the War Victims Fund for people like that Honduran boy (Congressional Record, 1993: S9290).

Thus, the disjoining of the landmines problem as a legitimate, conventional weapon, security issue, as negotiated in the UN during the CCW development, into a separate global humanitarian concern began to take root in the US and soon afterwards on the international agenda. Early estimates used in the campaign to establish the severity of the "crisis" stated that there were 100-200 million unexploded landmines around the world. These mines were reportedly responsible for killing or maiming an estimated 26,000 victims annually. In fact, one of the debates that later arose between the US and pro-ban advocates, as well as within the NGO community itself, was the validity of the early estimates and what impact they had on the campaign and the negotiation process. Further discussion on the negotiation strategies and

tactics associated with the use of these statistics will be provided in Chapter 4, *Towards the Review of the Convention on Conventional Weapons*.

### **US Recognition Of The Landmine Crisis**

Direct US involvement in the global campaign to ban landmines began 23 Jul 1992, when Senator Leahy sponsored an amendment to the National Defense Authorization Act. The “Landmine Moratorium Act of 1992” (Bill S.3098) imposed on the US “a 1-year moratorium on the sale, transfer or export of antipersonnel landmines abroad” (Congressional Record, 1992: S10927). This unilateral effort by the US was the first legislation of its kind by any State up to that point in addressing, and thus *de facto*, officially acknowledging, the existence of a global *crisis* caused by landmines. The Act specifically recognized that:

Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries [and that] noncombatant civilians, including tens of thousands of children, have been the primary victims; [that] unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations.

In countries like Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at \$980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at \$841,145 (Congressional Record, 1992: S14134).

The 1992 landmine export moratorium legislation served two purposes for US leadership. Besides establishing the US as a “leader in stopping the spread of these insidious weapons,” it also “strengthen[ed] the position of the United States to negotiate stronger international limits on the sale, manufacture, and use of landmines by setting an example for other nations” (Congressional Record, 1992: S14134). Senator Leahy’s statement’s offered at least three

specific issues for negotiating possible solutions to the landmine crisis. Two of these, the selling and manufacturing of landmines, suggested possible states' interests in the economic, as well as, security aspects of the crisis. But it was the third issue, that of the "use" of landmines (discussed later in this chapter), that would introduce the attention of the US military and its supporters to the global campaign to ban landmines. This initial focus on separate issues of the crisis offered the promise of negotiations that would consider the interests and issues of all significant participants. Unfortunately, the distributive bargaining strategies of the campaign eventually closed this negotiating option.

Besides enacting a moratorium on landmine exports, the Act also served to establish specific US policy concerning their stance towards solving the global landmine crisis. For example, on the issues of landmine use and production, it stated that US policy would be to "seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the use, production, possession and deployment of anti-personnel landmines" (Congressional Record, 1992: S14134). Clearly stated, possible solutions to the landmine crisis would need to include a validation instrument, but would not necessarily prohibit a limited ban on landmines.

In reference to appropriate forums in which to hold these negotiations, the Act implied that the US should remain flexible, stating that "it is the sense of the Congress that the President should actively seek to negotiate under United Nations or other auspice an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines" (Congressional Record, 1992: S14134). Unfortunately, this ambiguity towards the proper forum would later put the US at odds with pro-ban advocates in seeking an agreement towards banning landmines.

President George H. W. Bush signed the “Landmines Moratorium Act” into law on 23 Oct 1992. Senator Leahy strongly expressed that his amendment did not “affect U.S. manufacture, or use of landmines by U.S. forces. Nor does it affect exports of antitank mines. But I would have introduced the moratorium even if it did, because we have to do more than just talk about this problem. The moratorium has given momentum to a global campaign to put limits on antipersonnel landmines or to ban them altogether” (Congressional Record, 1992). In this testimony to Congress, the Senator in fact acknowledged several important issues that would later become key points in the US negotiations towards an agreement on the global landmines problem; specifically, antitank mines and whether or not the US should support a limited or total ban.

### **NGO Recognition Of The Landmine Crisis**

The unilateral efforts by the US in addressing the global landmine crisis did not go unnoticed by the non-governmental organizations (NGOs) who would directly benefit from any progress towards the possible elimination of landmines. Robert O. (Bobby) Muller, executive director and co-founder of the Vietnam Veterans of America Foundation (VVAFA) supported the Landmine Moratorium Act of 1992, acknowledging the “leadership role” the US was taking towards solving the global landmine crisis. He stated that the VVAFA recognized “the legislation as a first step toward ending [the] senseless slaughter” and endorsed “the language that would set” US policy towards the “eventual termination of production, possession or deployment of anti-personnel landmines” (Congressional Record, 1992: S10928). This expectation of possible US support for a total ban of anti-personnel landmines, while encouraging at the time, eventually led to frustration and animosity towards US leadership on the part of pro-ban advocates during the campaign negotiations.

The idea of an international effort to solve the global landmine crisis beyond the state-centered UN originated from a simple meeting in 1991 between two concerned, NGO representatives. As one VVAF staffer recounts: “Bobby [Muller] and Thomas [Gebauer of Medico International] were just sitting around talking about it and said, ‘we need to do something about this--you’re German, I’m US, that makes it international and we’re going to have a campaign to ban landmines.’ Literally as simple and innocuous as that may seem, that is how it all started” (Vitagliano, 1995). While the simplicity of the origins of the global campaign to ban landmines may be clear due to hindsight, in actuality, the NGOs involved were treading on new political ground and recognition from states was going to be an uphill battle. In fact, it had only been one year prior, on 16 Oct 1990, that the UN granted the highly coveted “observer” status to the International Committee of the Red Cross (ICRC). The importance of this event is highlighted by the fact that until that time, observer status was only granted to States or other “specialized or regional international organizations” (IRRC, 1990: 581-586).

Although this milestone for the NGO community seemed encouraging, His Excellency, Vieri Traxler, Permanent Representative of Italy to the UN, who presented the draft resolution to a plenary meeting of the UNGA, made it clear “that according to the co-sponsors of the proposal, the granting of observer status to the ICRC should not be considered as a precedent [and] ... that ‘the special role conferred upon the ICRC by the international community and the mandates given to it by the Geneva Conventions make of it an institution unique of its kind and exclusively alone in its status’” (IRRC, 1990: 581-586). Understanding the significance of this event, then ICRC President, Comelio Sommaruga, stated that “the ICRC's admission as an observer to the United Nations represents a remarkable recognition of the role played by the institution in international affairs” (IRRC, 1990: 581-586). While the ICRC maintained cooperation with

international efforts towards the elimination of the landmine crisis, their neutrality directed them towards the perimeters of the global campaign. Their professional relations with surgeons and retired military generals proved helpful in gaining support and credibility for the campaign from states that were hesitant to look beyond their security interests and focus on possible humanitarian concerns (Thakur and Maley, 1999).

The International Campaign to Ban Landmines (ICBL) formally began in 1992 when a small group of NGOs issued a *Joint Call to Ban Antipersonnel Landmines*. These six “core” NGOs included: Handicap International (France); Human Rights Watch (US); Medico International (Germany); Mines Advisory Group (United Kingdom); Physicians for Human Rights (US); and the Vietnam Veterans of America Foundation (US). At the time, the ICBL defined itself as “a flexible network of organizations that share common objectives” (ICBL, 2006). Jody Williams, working then with the VVAF, was appointed the coordinator of the ICBL (Cameron et al., 1998: 22). Each of these organizations specialized in a particular aspect of the landmine problem. This unique expertise could prove to be valuable for the ICBL during future negotiations in solving the landmine crisis. For instance, Mines Advisory Group (MAG) specialized in de-mining operations around the world, while Physicians for Human Rights (PHR) brought “knowledge and skills of the medical sciences to the investigation and prevention of violations of international human rights and humanitarian law” (Arms Project, 1993: vi). Of the six core NGOs, three—Handicap International (HI); Medico International (MI); and the VVAF—specialized in physical rehabilitation services. As will be discussed later, the ICBL’s focus towards landmine victim assistance, which initially served as the humanitarian basis of the original landmine efforts, would diminish in favor of *total ban advocacy* and stronger campaign tactics.

The ICBL began to grow in membership and their campaign gained international credibility as an increase in state legislation and international awareness began to take hold. On 9 Dec 1992, the UNGA issued Resolution 47/56, entitled “Prohibition or Resolution of Use of Certain Conventional Weapons.” In the resolution, the UNGA noted “with satisfaction that an increasing number of States have either signed, ratified, accepted or acceded” to the CCW and urged that “all States that have not yet done so to exert their best endeavors to become parties to the Convention and the Protocols annexed thereto as early as possible, as well as successor States to take appropriate action so as ultimately to obtain universality of adherence” (UNGA, 1992).

### **Defining The Landmine “Crisis”**

#### **The Montreux Symposium**

During 1993, a plethora of unilateral and multilateral efforts in the global campaign towards solving the landmine crisis occurred. These events were noteworthy because they signified an increase in international awareness and credibility for the ICBL, as well as, the possibility of a formation of pro-ban states, sympathetic to the humanitarian aspirations of the campaign. On 11 Feb 1993, France “proclaimed an indefinite ... moratorium on the export of landmines” and requested other states to do the same. (Chabasse, 1998: 62) But more importantly, especially for the US-based ICBL pro-ban advocates, President Mitterand also “called for a Review Conference of the CCW.” (Chabasse, 1998: 62) This was milestone for the campaign efforts in France of HI members and other campaign advocates, especially since the US was not a state party to the CCW and any campaign lobbying efforts there by the ICBL to push for a Review Conference, even with the full support of a strong pro-ban advocate such as Senator Leahy, were moot.



While the ICBL was still in its infancy, the ICRC, already well established internationally as an advocate for issues dealing with the laws of armed conflict and human rights, sponsored a symposium in April, 1993, in Montreux, Switzerland. Participants for the symposium were chosen for their expertise to “ensure a multidisciplinary approach” in any discussions and workings towards solving the landmine crisis; these experts included “military strategists, mines specialists and manufacturers, experts in international humanitarian law and disarmament, surgeons and orthopedists, representatives of de-mining organizations, concerned non-governmental organizations, and the media.” The ICRC-sponsored symposium was the first international effort in the Post-Cold War political environment to include such a broad scope of experts in analyzing and providing possible solutions to the global landmine crisis.

According to the declared goals of the symposium, participants were to: (1) document the “actual use of mines and the consequences thereof;” (2) “analyze the mechanisms and means currently available to limit this use and ... alleviate the suffering of victims;” (3) “identify any lacunae in this respect;” (4) “decide on the best remedial action;” (5) “establish a strategy for coordinating the work of different bodies involved in such action;” and (6) write a report which could be used as a reference for future measures.” Thus, several of the goals established by the Montreux Symposium, beyond just that of documenting the global crisis, offered specific areas in which future negotiations could focus. For example, based on these objectives, negotiators could concentrate on issues such as limiting landmine use, curtailing landmine victim suffering, and work to coordinate all efforts towards solutions to the crisis.

In fact, in the final report, entitled *Results of the Montreux Symposium on Anti-personnel Mines*, the recommendations and findings of the participants would be especially useful for future negotiators in that they specifically spelled out relevant issues of the landmine problem in

which to focus discussions and debate on towards possible solutions. For example, the participants offered that the “total ... prohibition of the use of all anti-personnel mines [would be] the best solution, not only from the humanitarian point of view, but also because restrictions on the use of weapons are more difficult to control than their total prohibition” (IRRC, 1994: 123-182) While this solution would obviously be supported by pro-ban advocates, the recommendation had a caveat. Many of the participants at the symposium felt a total ban on landmines was “unrealistic” for two reasons:

First, ... the global annual production of anti-personnel mines has averaged five to ten million over the past quarter century, meaning that there are possibly more than 200 million mines already existing in the world today. Moreover, the world trade in landmines, involving around 30 countries, is both flourishing and complex, is cloaked in secrecy and involves various institutions and agents who interact to circumvent the regulations on the trade in such weapons.

Secondly, governments would agree to such a prohibition only if their military establishments found it acceptable. The military experts present pointed out that it would be difficult to conceive of military operations being conducted without anti-personnel landmines, as there would be a definite loss in military capability and, were such a prohibition to be imposed, adapted anti-tank mines would probably be used. However, restrictions on the use and production of certain types of mines, such as those not fitted with self-destruct or self-neutralizing mechanisms, or non-detectable mines, would probably be approved (IRRC, 1994: 123-182).

As suggested by the participants of the Montreux symposium, a total ban on landmines was not practical unless state militaries were involved in the negotiations towards solutions. This is evident in the other proposals from the report, specifically in the recommendations to ban the use of landmines “not fitted with self-destruct or self-neutralizing mechanisms ... not detectable ... [and] with anti-handling devices.” The participants believed that “there was a need for a wider military view on the overall effectiveness of anti-personnel mines and whether or not they were essential in military terms (IRRC, 1994: 123-182). Unfortunately, it was not clear from this report just *who* this “wider military view” would or could come from. Thus, throughout

the global campaign, the debate concerning military issues in reference to landmines polarized according to which ever side of the debate they represented. For example, pro-ban advocates utilized the expertise of retired military personnel, while the US considered advice from current, active duty military leadership. This particular negotiating tactic will be discussed further in the study.

In terms of overall application, the Montreux symposium final report offered a number of recommendations that if negotiated in the proper context and with the relevant participants, suggested a workable and pragmatic approach to solving the global landmine crisis. For example, concerning the issue of current landmine stockpiles, the report recommended, short of a total ban on usage, production, and transfers, or the complete destruction of all existing stockpiles, that “existing stocks ought to be modified and fitted where possible with self-destruct or self-neutralizing mechanisms, or destroyed” and offered that “the technical means to do so are certainly available.” Although the symposium participants expressed concerns with the issue of actually verifying that states would indeed destroy their stockpiles, they felt the cost of total destruction of existing stockpiles outweighed the “exorbitant cost of mine clearance, which in some areas approaches US \$ 1,000 per mine” (IRRC, 1994: 123-182).

During the symposium, participants also analyzed at length the only international treaty to date that dealt with the problem of landmines, the CCW. According to the final report, the participants acknowledged that “an attempt had been made [through the CCW negotiations] to seek common ground between the military view that anti-personnel mines were an effective and operationally almost indispensable weapon, and the humanitarian view that these weapons were terrible in their effects as they not only caused unnecessary suffering but were indiscriminate by their very nature, inflicting heavy casualties among the civilian population and continuing to do

so well after the conflict in question had ended.” In sum, the participants considered the CCW and its Protocol II, which dealt specifically with landmines, to be “a modest treaty which in many respects was the product of various compromises” and that these compromises “greatly undermined the protection from the effects of anti-personnel landmines that the Convention was initially intended to afford.”

Another important discussion by the Montreux Symposium participants focused on what would be the proper international forum for negotiations in reaching a long-term agreement dealing with the global landmine crisis, specifically in regards to a “comprehensive ban.” While acknowledging the importance of the “overlap” between humanitarian and military security aspects of the crisis, some suggested a total ban solution should be negotiated within the upcoming Review Conference of the CCW. In any case, it was clear that the Symposium experts believed any negotiations should also include other than state participants. Accordingly, the Symposium experts “proposed that non-governmental organizations be allowed to participate in the Review Conference” and also recommended “that mine producers should be included in the consultative process” (IRRC, 1994: 123-182).

One distinctive characteristic of the global campaign to ban landmines was indeed its inclusion of NGOs and their connection with national grass-root movements. The Montreux Symposium experts believed this to be an important dynamic and one worth continuing during negotiations towards solutions. In their final report, these experts “recognized the crucial importance of alerting public opinion in order to increase awareness among the military and governments” and offered that “this would be an invaluable contribution towards a much-needed change in the [current international] law [relating to landmines]” (IRRC, 1994: 123-182).

Specific recommendations were made to include not only the national organizations associated

with the ICRC, but to also include UN-associated organizations. In a push towards increased public awareness of the crisis, the Symposium experts realized “there was also a constant need to keep the press informed about statistics on injuries caused by mines” (IRRC, 1994:123-182). While support for media inclusion was a continual dynamic throughout the global campaign, evident in the negotiating tactics of both the US and pro-ban advocates, debate would soon arise as to how this information should be portrayed and to what extent any *statistics* used were accurate or verifiable.

In May 1993, the six core NGOs of the ICBL, recognizing the need to organize their global campaign efforts, sponsored the first international NGO conference focused specifically on the global problems presented by antipersonnel landmines. Held in London, the conference was attended by 70 representatives of some 40 organizations (Williams and Goose, 1998: 28). The objective of the conference participants was to “strategize how to build awareness and public support around the world to convince governments that they must take action on the global landmine problem.” In contrast to the Montreux Symposium, the 1993 London NGO conference focused heavily on the humanitarian aspect of the global landmine crisis. The NGO representatives present solidified their commitment to advocacy of nothing short of a total ban position for the campaign (Matthew et al., 2004: 57). The keynote speaker at the conference, Aryeh Neier, director of the Soros Foundation, “advised the coalition to ‘stigmatize’ mine warfare in the same manner that biological and chemical warfare are stigmatized by the world community” (Parlow, 1995: 391-410). While the ICBL’s intentions were arguably laudable, a strategy based solely on one negotiable issue--that of a total ban on antipersonnel landmines--ran the risk of marginalizing other negotiators seeking possible solutions towards eradicating the global blight caused by landmines.

## Initial US Leadership

While the ICBL slowly gained momentum and support from pro-ban advocates, the US continued to maintain leadership in the global campaign. By mid-1993, Senator Leahy had introduced Amendment 821 to the National Defense Authorization Act of FY 1994. This amendment would extend the US's previous landmine export moratorium for an additional three years<sup>9</sup>. The purpose of Amendment 821 was to:

enable the US to exercise leadership in negotiating stronger international limits on antipersonnel landmines by setting an example for other countries; [and that], for a period of three years beginning on the date of enactment of [the] act -- (1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and (2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine (Congressional Record, 1993: S9290-92).

Senator Leahy emphasized to his Congressional colleagues that his amendment, with 59 co-sponsors,<sup>10</sup> to include both the Senate majority and minority leaders, stretched “across the political spectrum” and reflected a “statement of moral leadership on the part of the US” (Congressional Record, 1993a) As the major proponent of the Landmine Export Moratorium amendment, Senator Leahy often used unorthodox, but effective, tactics in getting his message across to other Senators concerning his views about the “morality” of the global landmine crisis and his dedication to the acceptance of his legislation. This excerpt from the session on Friday, 10 Sep 1993 illustrates Senator Leahy's passion and the extent that the landmine crisis, at least for Congressional members, could also be considered a humanitarian interest for US leadership:

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<sup>9</sup> According to the amendment, it was believed by the co-sponsors, that three years was adequate time to consider any results of the expected UN landmines conference slated to begin in late 1994 or early 1995.

<sup>10</sup> In addition to Senator Leahy and Senators Mitchell and Dole, the cosponsors were Senators Inouye, Byrd, Moynihan, Robb, Sasser, Jeffords, McCain, DeConcini, Glenn, Kerry, Kerrey, Lugar, Kassebaum, Dodd, Pell, Specter, Hatfield, Durenberger, D'Amato, Mikulski, Wofford, Murkowski, Chafee, Simon, Exon, Domenici, Lautenberg, Kennedy, Rockefeller, Bryan, Bumpers, Feinstein, Murray, Harkin, Metzenbaum, Bradley, Daschle,

**Mr. Leahy** - Mr. President, many of us have seen photographs like this. It is a horrible photograph. It is not one that any of us like looking at. A photograph of a young boy, one leg badly burned, damaged, crippled, the other leg torn off, one arm torn off. I do not show this picture simply to upset my colleagues. It is a picture of just one of hundreds and hundreds of thousands of landmine victims worldwide; innocent children, legs and arms blown off by landmines. I show the picture, though, because it has to touch the morality of every man and women in this Chamber. It does not make any difference whether we are conservative, liberal, moderate, Democrat or Republican, we have to understand how terrible these things are ... [by extending the current Landmine Moratorium for another three years] we can pressure other countries to stop exporting them, and finally to give the same onus to landmines that we give to chemical and biological weapons. Then we can say once and for all that people of any morality, of any respect for humanity, will not use landmines (Congressional Record, 1993a).

The Landmine Moratorium Extension Act of 1993 amendment to bill S. 1298 included information to Senators concerning the impact of the legislation on US landmine exports and any jobs related to the industry. The supplemental "Fact Sheet" was a telltale sign of the concern some Senators may have had in case anyone or group within their constituencies requested an explanation of their vote on the bill. According to the "Fact Sheet":

Exports of anti-personnel landmines from the United States have been insignificant. In the past decade, only 10 licenses have been approved for the commercial export of anti-personnel landmines valued at a total of \$980,000. Only 109,129 anti-personnel landmines have been sold under the Foreign Military Sales Program during the past 10 years. Several US companies manufacture landmines or components for US use.

However, with the decrease in the US defense budget, some manufacturers are seeking export markets for anti-personnel landmines. One manufacturer speculates that the potential foreign market for US anti-personnel landmines could be \$500 million over the next several years.

The number of American workers engaged in producing anti-personnel landmines for export is extremely small. Estimates of the number of potential U.S. jobs that could be affected by the moratorium have ranged from 30 in late 1992, to 1000 in April 1993, to 2000 in June 1993 (Congressional Record, 1993: S9292).

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Ford, Graham, Dorgan, Feingold, Levin, Riegle, Boxer, Sarbanes, Akaka, Reid, Kohl, Wellstone, Mathews, Pryor, Campbell, Simpson, Moseley-Braun, Bingaman, Burns, and Grassley.

During the same Congressional session on 10 Sep 1993, Senator Kennedy of Massachusetts offered another amendment pertaining to the topic of landmines. His amendment, no. 822, authorized \$10 million dollars “for activities to support the clearing of landmines for humanitarian purposes (as determined by the Secretary of Defense), including the clearing of landmines in areas in which refugee repatriation programs are on-going” (Congressional Record, 1993a). Senator Leahy, as the amendment’s co-sponsor, clarified for Congress that the amendment’s purpose was “specifically to get U.S. military personnel involved in training, technical assistance, and provision of equipment, and other activities in support of landmine clearing efforts in a humanitarian context” (Congressional Record, 1993a: S11453). Senator Leahy made it clear though, that any role the US military was expected to have in de-mining programs would be in a training capacity only, offering:

We are not contemplating that these Americans [US military personnel] will get involved in actual mine clearing. That is for the people of those countries, but our people have the expertise and the resources to assist countries that are trying to deal with their own landmine problems (Congressional Record, 1993a: S11453).

The debate in Congress on Amendments 821 and 822 brought forth distinct opinions concerning the subject of antipersonnel landmines--a sign that while the US led the international community up to that point in legislation towards solutions to the global landmine crisis, there were obvious political dynamics within the US Congressional leadership that suggested future legislation or negotiations on the topic may not be as bi-partisan as had been in recent past.

Senator Strom Thurmond’s comments to Congress (Appendix A) that same day emphasized several areas of the global landmine debate that troubled at least some us leadership at the time, suggesting issues that would stimulate future negotiations on the subject. For example, it was apparent from the Senator’s remarks that the actual cause of the current global



landmine crisis had not been fully established or understood. Stating that smart-mines “do not pose the threat to innocent civilians that less sophisticated mines do,” Senator Thurmond was in fact eluding to concerns that a comprehensive export on every type of landmine in US arsenals would not be in the best interest of the US or its allies and would also not necessarily solve the global landmine crisis (Congressional Record, 1993a: S14452). He also expressed concerns that any future moratoriums that may limit or prohibit the use or transfer of landmines would pose unnecessary dangers to our US military personnel in combat situations. Suggesting that the proposed moratorium extension may even make the crisis worse, Senator Thurmond hinted that such legislation would not be so easily accepted. In fact, these remarks were a fair indication of future debates within the US during negotiations towards solution to the landmine crisis.

On the Monday following the dynamic debate on Amendments 821 and 822 that took place in the US Senate, the National Security Council (NSC) took its own steps towards dealing with the global landmine crisis. On 13 Sep 1993, the NSC requested that the US State Department establish an Interagency Working Group (IWG) on Landmines and De-mining. Clearly focused on the issue of humanitarian de-mining, the initial objectives of the IWG would be to:

- establish a comprehensive database of countries requiring de-mining assistance;
- develop a strategy for encouraging other governments—especially those that have previously participated in mining activities beyond their borders—to participate or lead in de-mining operations;
- develop a prioritized list of countries that require USG [US government] de-mining assistance (including the specific type and amount of assistance required, and a proposed time frame);
- determine in what form the USG will provide de-mining assistance and to identify and develop the appropriate equipment and training programs that will constitute this assistance;

- integrate, where appropriate, USG de-mining assistance programs with similar programs run by the United Nations, other international organizations, and various non-governmental organizations;
- oversee the allocation of USG de-mining assistance resources;
- develop USG policy on international agreements to restrict the use, production, and trade of landmines;
- initiate research and development into cost-effective de-mining techniques; [and]
- develop policy recommendations with respect to ratification of the 1981 Conventional Weapons Convention, or concerning any modifications to the Convention (Itoh, 1993).

The Chairman and Vice-Chairman of the IWG would be the Assistant Secretary of State for Political-Military Affairs and the Assistant Secretary of Defense for Democracy and Peacekeeping, respectively. The IWG participants would eventually grow to include not only the NSC, but representatives from the State Department's Bureau of Political-Military Affairs; Bureau of Population, Refugees and Migration; the US Agency for International Development (USAID); the US Information Agency ; and the Central Intelligence Agency. Also included in the IWG were specific representatives from the Department of Defense (DOD), specifically, the Deputy Assistant Secretary of Defense for Policy and Missions, Office of Special Operations and Low-Intensity Conflict, as well as, representatives from the Office of the Undersecretary of Defense for Acquisition and Technology; the Office of the Assistant Secretary of Defense for International Security Affairs; the Defense Security Assistance Agency; and the Joint Chiefs of Staff with representatives from the Unified Combatant Commanders and Services.

Recognizing the importance of interagency coordination and the need for synergistic results in order to set up a successful humanitarian de-mining program, the IWG produced a Strategic Plan that formally established specific roles and responsibilities for each member organization. Acknowledging the IWG organization's individual legislative, as well as, funding

authorities, the IWG Strategic Plan presented a “framework for developing a cohesive, coordinated humanitarian de-mining program” for US leadership in its efforts towards solving the global landmine crisis (DoS, 2001: 2-5). Though, by 1995, US government organizational changes split the humanitarian de-mining and landmine control responsibilities of the original IWG charter. The IWG was given primary oversight of the humanitarian de-mining programs. The group’s structure was further divided into two subdivisions, meeting quarterly; one that covered policy and plans and another that focused on research and development. This reorganization allowed US leadership to concentrate their efforts into other potential solutions to the landmine crisis above and beyond the all-or-nothing, total ban approach being pursued by the ICBL.

If the announcement in France at the beginning of 1993 was a milestone for pro-ban advocates, then Roll Call Vote 258 was a watershed event for the ICBL campaigners, especially for those working in the US. On 14 Sep 1993, the Senate voted 100-0, in favor of the Landmine Export Moratorium Extension amendment (NDAA, 1994). This show of unity within the US Senate did not go unnoticed outside the halls of Congress. In the words of Bobby Muller, of the VVAF, “as soon as that happened, when that 3-year extension on that roll call vote in the Senate was taken, that’s when [Department of Defense] woke up and said, “‘Oh shit!’ That was their wake up call. They saw that it got traction” (Muller, 2005). This unanimous, bi-partisan vote in the US Senate, for the moment, suggested that US leadership may be willing to negotiate other aspects of the landmine issue that had previously been disregarded in US policy.

Within a year of the 1992 US landmine export moratorium legislation, other states and international organizations gained momentum in their efforts towards solving the problem of landmines. The French government formally requested that the UN hold a Review Conference

of the 1981 Convention on Conventional Weapons (CCW) treaty. The European Parliament, hinting at possible economic issues, approved “a resolution calling on its members to impose a 5-year moratorium on sales and exports of antipersonnel landmines” (Congressional Record, 1993: S9291). Following suit, the United Kingdom called for an indefinite British export moratorium, as well as, an international export ban. The global community appeared ready to consider serious negotiations towards possible solutions to the global landmine crisis.

While the US Senate had emerged united in its early efforts towards solving the problem of landmines, the debate had not yet been fully integrated into the US’s international policy agenda. In his speech to the UN General Assembly on Tuesday, 27 Sep 1993, US President Clinton failed to make any mention about the global landmine problem or any of the recent events that had taken place in his country, much less throughout the international community, concerning landmines. Instead, he announced US interests in increased democratization and development, nuclear non-proliferation, biological and chemical weapons conventions, AIDS, the global climate convention and UN peace-keeping missions.

### **Initial Efforts of the International Campaign to Ban Landmines**

The 1992 International Campaign to Ban Landmines’ (ICBL) organizational *Joint Call* initially established the humanitarian interests of the campaign’s core group as they pertained to the global landmine crisis. Recognizing that “antipersonnel mines that detonate on contact are indiscriminate weapons that remain hidden and lethal long after the end of a conflict,” the ICBL was also concerned that landmines had “killed or mangled tens of thousands of civilians and rendered large tracts of agricultural and pastoral land unusable, [thus] preventing the subsistence and economic development of rural populations” (Arms Project, 1993: 361). This statement gave credence that ICBL core leadership believed it spoke for victims of landmines who in the

past did not have a voice on the international stage. The core NGOs believed that the international community, particularly as witnessed through the 1980 CCW treaty, had “failed to prevent the indiscriminate use of antipersonnel mines” (Arms Project, 1993: 361).

Beyond their *total ban* advocacy position, key ICBL participants also recognized the historical influence of the political environment that the campaign was entering and what that meant for NGOs:

[Then came] the end of the Cold War and you know what? We got some political space. So, you could be both an advocate, critical of the government and receive government money. ... And what we did was, we really created a different kind of organization, because, again, organizations that existed were either advocacy organizations or service providers. They weren't hybrid because the politics of life didn't allow that to happen.

[For example], Handicap International ... really debated long and hard to whether or not become [total ban] advocates, as well as, humanitarian providers, as they had become known to be, and the campaign got them to go there ... at the time, the head of Human Rights Watch, said, 'I've always felt,'--and he was very strong about that, he never became comfortable as an advocate--'that the role of Human Rights Watch is to document the situation and report it, not to be the advocate; this campaign has transformed that for me.'

So, being a hybrid organization, that was politically engaged as an advocate and receiving millions of dollars from the government, that was a new creation. I would argue, that today, you can't do that anymore ... certainly throughout the Cold War era, you could not criticize the government in this country and expect that you were going to get millions of dollars in support; it didn't work. But when the Cold War ended and [US President] Clinton came in, that structure had collapsed. And there was more freedom, witness the fact that we did this (Muller, 2005).

The ICBL had also clearly outlined in their *Joint Call* specific issues concerning possible negotiable solutions to the global landmine crisis. First, they called for “an international ban on the use, production, stockpiling, and sale, transfer or export of antipersonnel mines” (Arms Project, 1993: 361). Based on this statement, six separate, international agreements could be negotiated concerning banning (1) the use of, (2) the production of, (3) the stockpiling of (4) the sale of, (5) the transfer of, and (6) the export of landmines. The prospect for international

agreements towards solutions to the global landmine crisis appeared then to be plentiful; unfortunately, the negotiators expected to reach such an agreement did not appear to all be playing from the same sheet of music.

In a discussion between a key ICBL representative and retired military officers<sup>11</sup> during the 1994 televised documentary, “Killing Fields: The Deadly Legacy of Landmines,” the disparity of opinions and positions on the use of landmines became evident early in the campaign:

**Col Richard Johnson (USA, ret)** - I am convinced though that a ban on antipersonnel mines is not a way to solve the problem. ... if manufactured antipersonnel mines are banned, an insurgent who wants to still do that same job will find the assets to manufacture his own. He'll either do it from dud-fired ordinance or make his own. It's not that hard to do ... first of all, I don't think mines are indiscriminate if used responsibly and controlled responsibly.

**Mr. Goose (Washington Director of the HRW Arms Project):** We believe that landmines have been used indiscriminately by most people who have, in fact, deployed landmines over the course of the past several decades. But we further believe that landmines are inherently indiscriminate because of their time-delay function. And we think that because of that, they should already be considered as illegal and inhumane weapons of war under customary international humanitarian law.

**Col Burrus Carnahan (USAF, ret)** - The same criticism can be made of virtually any weapon. Any weapon can be used in an indiscriminate manner (Isenberg, 1994).

Discernible in the previous exchange are underlying views concerning what might be the actual cause of the global landmine crisis--the *indiscriminate* use of landmines. In other words, the participants in the international debate had yet to decide what constituted “indiscriminate use” versus “responsible use” of landmines and did this issue point towards the cause, and eventual solutions, of the global landmine crisis. Although the opinions of the participants on this issue

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<sup>11</sup> Before retirement, Col Johnson was the Project Manager for *Mines, CounterMine and Demolitions* at Picatinny Arsenal in NJ, where landmines for the US military are developed; Col Carnahan was a former US Delegate to the working group that drafted the Protocol II of the CCW.

appeared unyielding, if allowed thorough debate and using appropriate negotiation strategies and tactics, the possibility of producing a negotiated agreement was definitely present.

Unfortunately, the competitive strategies chosen by ICBL leadership during the early campaign eliminated an array of relevant issues as possible negotiating opportunities. For instance, the US had already unilaterally passed a moratorium on the export of antipersonnel landmines. Separate negotiated agreements on banning further production, sales or transfers may have been possible, except that the “total ban” advocacy position of the ICBL, which included the use of antipersonnel landmines, made it difficult for states, such as the US, to negotiate separate agreements concerning other issues, even though, the US had clear humanitarian interests in solving the landmine crisis.

Initially, the ICBL called for “the establishment of an international fund” that would be “administered by the United Nations to promote and finance landmine awareness, clearance and eradication programs worldwide” (Arms Project, 1993: 362). Contributions would be expected by those “countries responsible for the production and dissemination of antipersonnel mines.” (Arms Project, 1993: 362) Although the ICBL had clearly stated in its joint call its standpoint that the CCW was a failure, the NGOs seemed to acknowledge that the UN was vital in certain aspects, specifically on the issues of awareness and de-mining; but no other suggestions of a forum for actual negotiations on these issues was made.

By establishing a stance on “clearance and eradication programs,” the ICBL was presenting a potential opportunity for the US and NGOs, such as Mines Advisory Group (MAG), to participate in joint problem-solving efforts with the possibility of a negotiated agreement on the de-mining issue. Although individuals within the ICBL recognized the opportunity to negotiate other issues in the landmine debate, some influential members decided to focus

campaign efforts towards the *total ban* position. As one key VVAF official described the situation:

I remember going back to the Pentagon and, you know, we were in a meeting and we were kind've pounding ... them, on, you know, 'you've got to get with the program.' And then after that, [the director of MAG] said, 'OK, now I've got to put on my other hat. We've got de-mining operations in Kurdistan; you've got to fund us.'

I came off of that and I said to our guys [VVAF], 'we're not going into de-mining.' People were begging us to come into de-mining. But we're not going to do that. We're going to be the [total ban] advocates on this. I think it's difficult to wear the two hats. You know, to be banging away and at the same time, turn around and ask them for the funding for de-mining ... because, during the Cold War, you could not, as an American NGO, go up and testify before Congress, criticize our government and expect that they were going to give you millions of dollars. It didn't happen (Muller, 2005).

The ICBL leadership believed that speaking "authoritatively with one voice" would benefit the campaign in dealing with states at the negotiating table (Goose and Williams, 2004: 243). While the ICBL may have offered only one voice, the positional bargaining strategy of the pro-ban advocates during the ICBL campaign overshadowed individual NGO voices. In fact, other issues, such as de-mining, landmine victim assistance, physical rehabilitation services, and research and development into alternative technologies were conspicuously absent from the initial ICBL joint call to ban landmines.

Greater support for these other issues eventually came forth later from NGOs within the campaign that recognized that when the "central, unrelenting focus of the ICBL" turned towards "the pursuit of a global ban" position, their voice on these important issues would not be heard and potentially left out of any negotiated agreement. (White and Rutherford, 1998: 104) While key ICBL leadership, such as Stephen Goose of HRW, acknowledged the total scope of the landmine blight on the international community, his idea for the direction for the campaign was straight-forward and uncompromising:



You have to balance off the military utility versus the humanitarian disaster that landmines are causing around the world. And it's our [ICBL] strong belief that, in fact, the humanitarian and economic and social consequences of the use of landmines far outweigh the military utility. The only way to really come to grips with the landmines disaster on a global scale is to have a comprehensive ban: no production, no possession, no stockpiling, no use and no transfer (Isenberg, 1994).

The “balancing off” of issues the ICBL was willing to negotiate did not only impinge on outside participants working towards solutions, but also those within the campaign who were interested in workable, and eventually, negotiable solutions to the landmine crisis. Jerry White and Kenneth Rutherford, co-founders of the Landmine Survivors Network (LSN) and landmine survivors themselves, initially disagreed with the ICBL leadership who insisted that “victim assistance measures would just muddy the waters and potentially give governments another excuse for not committing to a ban of any sort” (White and Rutherford, 1998: 105). White and Rutherford both knew that a solution to the global landmine crisis “would require an integrated approach that took into account the need for accelerated mine clearance and survivor assistance.” (1998: 105) As White explains:

Our particular case of Landmine Survivors Network, [was] survivors elbowing their way into the process and saying ‘we shouldn’t be left out in the hallways or as poster children’... [the landmine crisis] has effected us perhaps more than anyone in this room, ambassadors and policy people alike.’ So, if Washington [DC] or anyone else out there said, ‘oh why don’t you all have a voice?’

The survivors really pulled the microphone at a certain point at the press conferences to ensure that the substance of the treaty has victim assistance related language in it and that it would be humanitarian framework and not just an arms control treaty. I think that that wouldn’t have happened if the survivors hadn’t been in the process and taken their seat at the table, even in the context of the ICBL (White, 2005).

It is evident from the discussion above that as the awareness of the global landmine crisis increased within the international community during the early 1990s, the major participants of the campaign began to polarize towards two specific bargaining positions. As will be shown in

subsequent chapters, the decisions made by the participants to cause this polarization were detrimental to the negotiation process—a process that was initially expected to solve the global landmine crisis.

The global campaign to ban landmines started out as an international effort to solve the humanitarian crisis associated with landmines. The mutual recognition between the US, particularly in the Senate, and the core NGOs of the ICBL, that this humanitarian crisis did in fact exist offered encouraging momentum towards joint problem-solving efforts and cooperative negotiation strategies. The US leadership appeared to gravitate towards solutions that focused on a more “limited” ban of landmines, highlighting issues such as export moratoriums, humanitarian de-mining and research and development in to better landmine technologies. The ICBL and its key supporters toughened their position for a more narrow, total ban as the only solution they were interested in pursuing. Unfortunately, before the campaign had gotten through its initial stage, the participants had chosen distributive bargaining strategies and tactics, which led to competitive negotiations.

### **In Search of Solutions**

In Jan 1994, the US Department of State released its first edition of a report entitled, *Hidden Killers: The Global Problem with Uncleared Landmines* (DoS, 1994). Although it was the most comprehensive, official report offered by any state up to that point in time, *Hidden Killers*, based on a study requested by the US Congress the previous year, was as controversial as it was informative. The next chapter begins with a discussion of this controversy as the US entered into their *negotiation stage* to seek solutions to the global landmine crisis within the United Nations Conference on Disarmament (CD). Although it barely made the deadline to

qualify as a full participant in the Review Conference negotiations, the US firmly argued that the CD was the most appropriate forum for such negotiations.

The expansion of the ICBL continued as more and more NGOs, pro-ban states and other key international advocates joined in the pro-ban call to completely rid the world of landmines. For example, in his capacity as Depositary of the 1980 CCW, UN Secretary General, Boutros Boutros-Ghali established a *Group of Experts* in preparation for the Review Conference of the 1980 CCW, which was to begin in September 1994. The Group's first three meetings, chaired by Johan Molander of Sweden, were scheduled for 28 Feb - 4 Mar 1994, 16-27 May 1994, and 8-19 Aug 1994, respectively, and were to be held at the Palais des Nations in Geneva. The Group's main purpose was to prepare and present to the United Nations Conference on Disarmament members, "specific proposals for amendments to Protocol II of the [CCW] for the purpose of strengthening prohibitions or restrictions on the use of mines ... particularly those that [were] not detectable and self-destructing or self-neutralizing" (UNGA, 1994).

The ICBL closely monitored the Conference on Disarmament negotiations in the United Nations over the next two years. The 1<sup>st</sup> Review Conference of the Convention on Conventional Weapons eventually produced an Amended Mines Protocol II to the CCW in May 1996. The Amended Protocol II greatly improved the original Protocol II, but it was deemed insufficient and unacceptable by the ICBL and pro-ban advocates. The Review Conference's failure to produce an agreement that totally eliminated landmines led to the initiation of the Ottawa Process and effectively began the *negotiation stage* of the pro-ban advocates, which led to the Ottawa Convention. These events will be fully explored in the following chapters.

## CHAPTER 4 TOWARD THE REVIEW OF THE CONVENTION ON CONVENTIONAL WEAPONS

### **Introduction**

This chapter discusses the events that occurred during the negotiation efforts of the global campaign to ban landmines from December 1993 through August 1995. While this was indeed a dynamic period, the campaign was still in its infancy. During this time, major participants attempted to define and understand the scope of the global landmine crisis and at the same time, searched for possible solutions, based mainly on two negotiating positions. Those who held a “total” or pro-ban position believed that only by the total elimination of landmines could the global crisis be solved. This pro-ban position towards landmines was generally held by those who saw the global crisis as a humanitarian concern. Those who considered the global landmine problem chiefly a security concern that could be solved through various arms control initiatives, along with the humanitarian efforts, typically held a “limited ban” position throughout the international campaign.

### **Multilateral Efforts Toward Solutions**

During the 81st plenary meeting of the United Nations General Assembly (UNGA) held on 16 December 1993, several resolutions were adopted in relations to the landmine problem. Resolution 48/75(K), adopted by the General Assembly without a vote, called upon member States to "agree" to and "implement" export moratoriums on anti-personnel landmines. As a result, United Nations (UN) Secretary General Boutros Boutros-Ghali requested that member States submit their intentions towards the resolution by 30 June 1994. Within a month, Argentina, Austria, Belgium, Canada, Finland, France, Germany, Greece, Israel, Malta, Spain, Turkey, Ukraine and the US had provided the relevant information. Resolution 48/79, which

passed the UNGA with a unanimous vote of 162-0-3, "urgently call[ed] upon all States that have not done so to take all measures to become parties, as soon as possible, to the Convention and upon successor States to take appropriate measures so that ultimately access to this instrument will be universal" (UNGA, 1994). Pursuant to Resolution 48/79, the UN Secretary General established a Group of Governmental Experts to begin preliminary discussions and meetings as part of the initial process of the Review Conference of the 1980 *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), which was to start in September 1994. The UN Group of Experts sessions, the first of four beginning in early 1994, in effect launched the US's "pre-negotiations phase" seeking solutions to the global landmine crisis within the UN Conference on Disarmament (CD).

Simultaneous to the efforts in the United Nations and in direct response to a recommendation offered by the 1993 Montreux Symposium participants, the International Committee of the Red Cross (ICRC) hosted a group of professional military combat engineers from 10-12 January 1994 to "study the military use of anti-personnel mines and possible alternatives" (Maresca and Maslen, 2000: 310). These military experts reviewed and reported on the military use, cost effectiveness, and employment of anti-personnel landmines during conventional and unconventional conflicts, as well as, the implications of marking minefields for the protection of both combatants and non-combatants (ICRC, 1995). On the former topic, the experts concluded that when minefields were properly recorded, it "enhanced the safety of ... soldiers and non-combatants." The military experts also reported that, unfortunately, most insurgent forces lacked not only the "training, expertise and discipline" to ensure their minefields were properly marked, but also lacked the infrastructure to record and pass along the information

to other forces or civilian populations (Maresca and Maslen, 2000: 314). While the Group of Experts clearly acknowledged the damaging impact of insurgent forces and their unconventional warfare tactics towards the causes of the global landmine problem, these forces were never considered as participants in the negotiations by international negotiators during the campaign to ban landmines.

During the Montreux Symposium, the military experts explored and reported on several relevant issues pertaining to possible negotiable solutions. After fully evaluating the military utility of landmines, alternatives were assessed against the attributes of the landmines to determine their capability in replacing landmines as a weapons system for future military use. The military experts also examined the issue of landmine control measures, specifically the issues of self-destruct and self-neutralizing landmines and the detectability / non-detectability of landmines. The military experts concluded that military forces "do not regard alternative systems as being viable" replacements for anti-personnel landmines, in both cost-effectiveness and mission accomplishment (Maresca and Maslen, 2000: 318). This conclusion was significant in future negotiations in that the Clinton administration would eventually offer to sign the Ottawa Convention by 2006, if viable, alternative military capabilities were developed. However, based on the report's conclusion, President Clinton's goal of signing the Ottawa Convention by 2006 was in jeopardy.

### **US Efforts Within The Conference On Disarmament**

The United Nations Conference on Disarmament (CD) was formed in 1979 as "the single multilateral disarmament negotiating forum of the international community" (UNOG, 2008). In his first speech to the Conference in Disarmament (CD) in Geneva, on 25 Jan 1994, John D. Holum, the new Director of the US Arms Control and Disarmament Agency (ACDA), stated:

The end of the Cold War has created particular opportunities for the CD and I am here today to pledge to you that the US will do everything in its power to make the most of them. The CD is the only multilateral forum to address global arms control and disarmament issues on a continuing basis. Its membership covers every region of the globe and reflects a wide range of concerns and interests.

We have all come to accept the CD as both a marketplace of ideas and a place where nations get down to practical business and conclude the agreements that enhance international security ... the United States recognizes the importance of the CD as a multilateral arms control body (Holum 1994).

Holum made it clear in his speech that the US strongly supported the CD as the proper multilateral negotiation forum for arms control concerns. He also presented an “official message” from President Clinton to the Conference on Disarmament that emphasized the US’s specific negotiation agenda items of interest for the upcoming session. President Clinton’s message stated:

This conference has several important items on its agenda as the 1994 session begins, including transparency in armaments, and it may assume others, such as a ban on fissile material production for nuclear explosive purposes. *None is more important than the negotiation of a comprehensive and verifiable ban on nuclear explosions. This challenging, but crucial, objective is the conference's top priority.* [Emphasis added] It reflects our common desire to take decisive action that will support and supplement the global nuclear nonproliferation regime and will further constrain the acquisition and development of nuclear weapons.

Regional instabilities, the end of the Cold War, and the growing threat of proliferation of nuclear weapons have created new and compelling circumstances to encourage progress in disarmament. Accordingly, I Decided last July to extend the moratorium on the United States nuclear weapons tests and committed the United States to achieving a Comprehensive Test Ban Treaty. At the same time, I called on the other nuclear weapon states to observe a testing moratorium, and I do so again today.

I am confident that Ambassador Ledogar and the US delegation [to the CD] will join with you in taking bold steps toward a world made safer through the negotiation at the earliest possible time of a Comprehensive Test Ban Treaty that will strengthen the security of all nations. You have my best wishes during this important conference (Holum, 1994).

In his message to the Assembly, President Clinton not only emphasized US arms control interests concerning nuclear proliferation, but also US desires for the CD to focus its efforts on

the nuclear proliferation issue in the upcoming year. The banning of landmines was not specifically mentioned by President Clinton as a particular CD agenda item; an indication that while progress towards a solution to the global landmine problem may have been made within the US Congress by early 1994, the Executive branch was focused elsewhere (Clinton, 1994: 126).

Notwithstanding the President's interests towards nuclear concerns, Mr. Holum did in fact discuss landmines during his first speech to the CD. After offering US acknowledgment of the importance of the upcoming UN governmental experts meetings in the area of conventional arms control, he then recognized the US as a leader in the landmine movement. Specifically, Mr. Holum emphasized that:

[The US has] taken a first step [in relation] to land mines. These weapons continue to wreak havoc on civilian populations whether or not they are any longer in an active war zone. The UN has supported by consensus the US-initiated resolution calling for a moratorium on the export of anti-personnel land mines.

We must now take the next step and make the global moratorium a reality. In doing so, we not only protect the futures of many innocent civilians, but we also draw attention to a range of problems long thought too difficult for arms control to solve. This process will also be fortified by this year's experts' deliberations leading to a review conference on the convention on weapons that may be deemed to be excessively injurious or have indiscriminate effects (Holum, 1994).

However, the US administration, in the mid-1990s, believed that a total ban on landmines as "the only" solution to the global problem was not viable, relying on other solutions, such as export moratoriums, that better suited their particular interests at the time.

Senator Patrick Leahy (D-VT), in a speech to the Senate on 22 February 1994, appealed to the Clinton administration to seek advisory status for US Congressional members and their staffs, as well as, observer status for relevant NGOs in preparation for the Review Conference of the 1980 *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) set for year's end. Leahy acknowledged that this was "essential to ensure full consideration of all the issues, including an in-depth examination of the military use of mines versus their effects on civil society" (Leahy, 1994: S2016). He went on to recommend that the US's main objective in these future negotiations should be to "seek the broadest possible agenda" on a "full range of issues"(Leahy, 1994: S2016). These negotiation issues included seeking limitations on the production, stockpiling, export, transfer, possession and use of landmines and searching for realistic enforcement policies of any agreed upon limitations. In fact, the Senator from Vermont held that "all options should be fully considered, up to and including a total ban on the production, possession or use of anti-personnel landmines" (Leahy, 1994: S2016). However, the official US "limited ban" position, which remained relatively constant during the entire global ban campaign, would eventually create a difficult chasm to transverse for future joint-problem solving negotiations between the US and pro-ban advocates.

While the US continued to declare its leadership role in the global ban campaign at every opportunity, the fact remained that the US government had yet to ratify the 1980 *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). Encouraging for those in the US concerned about the global landmine crisis, Mr. Holum stated during his first speech to the CD, "although not presently a party to [the CCW], the United States will closely follow the progress of the conference as an observer, and the President intends to submit the convention to the United States Senate this year for advice and consent to ratification" (Holum, 1994). As will be discussed later in this chapter, the importance of the US to quickly ratify the CCW was primarily related to the possibility of the US serving as merely an observer in the CD

negotiations; a fact that would have an impact on whether they would be able to fully influence other arms control protocols within the Convention and not just those related to the landmine crisis.

Four days prior to the official start of the sessions 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*, the president of the International Committee of the Red Cross (ICRC), Cornelio Sommaruga, held a press conference to release an official statement concerning the ICRC's position towards the landmine crisis. Mr. Sommaruga acknowledged that while the negotiators of the CCW in 1980 had had good intentions, the treaty did little to curb the use of the deadly weapons it sought to restrict. An important point in his statement was the ICRC position that the landmine problem was a "humanitarian" crisis and that the ICRC fully supported "a worldwide ban on antipersonnel mines [as] the only, truly effective solution," holding the position that "all the countries of the world" should ratify the CCW (Maresca and Maslen, 2000: 264-65).

The Group of Governmental Experts began its first of four sessions on 28 February 1994 at the *Palais des Nations* in Geneva. The Group consisted of governmental experts from 27 States parties<sup>12</sup> 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*. These States held decision-making authority within the sessions which was important to the negotiations because the Group had decided to arrive at decisions by

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<sup>12</sup> 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.

consensus. Twenty-three States non-parties,<sup>13</sup> as well as, the ICRC, participated in the work of the Group, but as observers only (UND, 1994: 57). During the first meeting, the Group adopted an agenda for continued use throughout each of its subsequent sessions.

Some of the major agenda items considered by the Group, and items that were eventually extended into the future Review Conference of the CCW negotiations were agenda items number (4) *Method of Decision-making*; (6) *Question of participation*; (7) *Organization of work of the Group of Experts*; (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 States Parties*; (11) *Consideration of other proposals relating to the Convention and its existing or future Protocol*; and (13) *Adoption of the final report of the Group of Experts to the Review Conference* (UND, 1994: 58-59). The Group also considered a wide range of states' proposals relating to the global landmine problem. These proposals ranged from prohibiting or restricting "the development, manufacture, stockpiling, use and transfer of booby traps and certain types of mines [and] international transfers of anti-personnel land-mines" to the much broader proposals advanced by Estonia, Mexico and Sweden who sought "to establish a total ban on anti-personnel land-mines" (UNGA, 1994a: 7).

The United Nation's interests in developing states guided their initial issues in relation to solutions towards the landmine problem. On 6 May 1994, the UN Secretary General reported "the world is awakening to the reality that the proliferation of landmines poses a major obstacle to development" (UNGA, 1994b). Boutros Boutros-Ghali declared that landmine proliferation

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<sup>13</sup> 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 US

"must be halted" and that given the "lucrative aspects of the arms trade" at the time, went further and offered his support for calls of a "worldwide ban on the production and transfer of landmines and their components" (UNGA, 1994b). He also stated that mine clearance was "a prerequisite for all other post-conflict peace-building activities" and that a "capacity needs to be established to undertake, monitor and assess mine clearance and to maintain national standards in accordance with international guidelines" (UNGA, 1994b). While not offering any details on how or when that "capacity" may evolve within the UN, within four months of his report, Boutros-Ghali clarified his positions, namely, announcing the need for stronger advocacy efforts and more importantly, finally establishing his support for a total ban as the ultimate solution to the global landmine problem (Boutros-Ghali, 1994: 12).

### **US Ratification Of The CCW**

Although the US had signed the 1980 CCW a decade earlier, it had not yet ratified the international arms control convention. In order to become a State party to the CCW, a government had to ratify at least two of the Protocols. While the United States government was certainly concerned about Protocol I, which dealt with the use of weapons undetectable by X-rays and Protocol II, related to the growing landmine crisis, its leadership was more concerned with international negotiations that may affect Protocol III which dealt with the use of incendiary weapons. In his Letter of Submittal to the US Senate on 21 March 1994, President Clinton emphasized that "in light of these concerns," he recommended that Protocol III "be given further study by the interagency community" and that "in the meantime the United States exercise its right under Article 4 of the Convention to accept only Protocols I and II" (US Senate, 1994). But, if there was any urgency in President Clinton's desire to have the CCW ratified, it was not emphasized well to the Senators. In fact, the Committee on Foreign Relations did not present the

CCW and its Protocol I and II for consideration to the whole Senate until March 1995. Further discussion on the Senate debate will be presented later in this chapter.

As of 1 May 1994, there were 40 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) and its annexed Protocols. On 12 May, President Clinton presented the CCW and two accompanying Protocols on *Non-Detectable Fragments* (Protocol I) and on *Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices* (Protocol II) to the US Senate for their advice and consent. In his Letter of Transmittal to the Senators, President Clinton expressed his belief that the ratification of the CCW and its Protocols I and II would "underscore our commitment to the principle that belligerents must refrain from weapons or methods of warfare that are inhumane or unnecessary from a military standpoint." The President went on to say:

By becoming Party [to the CCW], we will encourage the observance by other countries of restrictions on landmines and other weapons that U.S. Armed Forces and those of our allies already observe as a matter of humanity, common sense and sound military doctrine.

The United States will be able to take the lead in negotiating improvements to the Mines Protocol so as to deal more effectively with the immense threat to the civilian population caused by the indiscriminate use of those weapons. It will strengthen our efforts to encourage adoption of a moratorium on export of all anti-personnel landmines (US Senate, 1994).

The following day, 13 May 1994, the US Senate Committee on Appropriations Subcommittee on Foreign Operations, Export Financing, and Related Programs Appropriations convened a hearing to review and examine the problem of civilian casualties caused by undetected military antipersonnel landmines remaining in former battlegrounds. This was the first hearing convened by the US Senate to formally address the global landmine crisis. The

various witnesses giving testimony included US Congressman Lane Evans (D-IL), who spoke on the merits of banning the use of landmines; Thomas E. McNamara, Principal Deputy Assistant Secretary, Political and Military Affairs for the US Department of State, who reviewed the current US efforts to address the global landmine problem; Frederick Downs, Jr., the Director, Prosthetic and Sensory Aid Service; Robert O. Muller, Executive Director of the Vietnam Veterans of America Foundation; and Kenneth Anderson, Director, Arms Project, Human Rights Watch, who all offered assessments and recommendations for improvement of US policy for limiting harm to civilians from landmines. Statements were also submitted to the Committee for consideration by the United Nations Secretary General Boutros Boutros-Ghali, former President Jimmy Carter, and Elizabeth Dole, the president of the American Red Cross. The scope of witnesses offering testimonies to the Committee suggested that the global landmine problem had reached a level of significance worth more detailed investigation than previously explored by the US government.

For example, retired British general, Patrick Blagden, head of the United Nations Demining Program, offered a dynamic testimony in which he attempted to put into perspective the scope of the global landmine crisis. Blagden stated to the Committee members that he would hit his desk every 15 minutes of the day and think, "There goes another one," referring to another victim of a landmine around the world (Congressional Record, 1994: S6879-82). But based on the statistics offered in Blagden's testimony, which were often used by pro-ban advocates at the time, landmines would then have been claiming over 35,000 victims per year. In comparison, Senator Patrick Leahy (D-VT), in speaking to the Senate just four weeks after Blagden's testimony, stated that "landmines kill or maim over 1,200 people every single month of the year," a statistic that equates to 14,400 victims per year. Since statistics such as these were

extremely difficult to substantiate, the actual magnitude of the global landmine crisis not only remained indeterminate, even amongst the pro-ban advocate, but made reaching a possible, multilateral solution to the crisis that much more complicated.

Of all the witnesses who addressed the Committee during the mid-May 1994 hearing, the most moving testimony no doubt came from Kenneth Rutherford, a former relief worker for International Rescue Committee. Mr. Rutherford graphically described for the senators his harrowing personal experiences as a survivor and victim of a landmine explosion while working in Somalia. After completing his description of the incident and his experiences since the event, Rutherford testified to Committee members that "as an American," he felt the US "should promote and support a complete international ban on the production, and export, and deployment of land mines," offering that it would be a "tremendous opportunity" for the US "to confirm our humanitarian principles and leadership in the world." Possibly recognizing that this would not happen overnight, Rutherford stated that "in the interim, a permanent ban on all United States landmine development, export, and production" would set "the standards for the behavior of nation states" and would "help bring international attention to the landmine problem," thus stimulating efforts "toward a complete international ban" (Congressional Record, 1994).

It was evident from the previous testimonies given to Congress that the global landmine crisis was being examined and explored by participants in the debate as a problem that would clearly invite many disparate solutions. This unique aspect of the global campaign to ban landmines would prove to be a key factor in the international negotiations to reach an amicable solution to the crisis.

## US Pre-Negotiations To The Review Conference Of The CCW

The Group of Governmental Experts, formed to consider proposals for the Review Conference of the CCW, held its 2nd session from 16-27 May 1994. Under the Chairmanship of Johan Molander of Sweden, the Group held 18 meetings. During these meetings, the participants, which included States Parties to the CCW, selected observers, and the various invited UN and non-governmental agencies, focused primarily on Item 10 of the previously agreed upon agenda, 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.*" However, they also agreed to keep open agenda item 9, entitled "*General exchange of views,*" so that the "substantive consideration of the subject [item 10] could benefit from such an exchange of views" (UND, 1994: 73-74). The exchange of views and working discussions on item 10 was the genesis of the negotiations that would eventually produce an Amended Protocol II, within two years.

During the 2nd session deliberations, the Group agreed to consider the various proposals to amend Protocol II within a framework that included the following "clusters of issues: (1) scope of application; (2) definitions; (3) prohibitions and restrictions; and (4) verification, fact-finding and compliance" (UND, 1994: 76). In reference to the "definitions" issue, numerous proposals were submitted for consideration in amending Article 2 of Protocol II. In fact, separate informal consultations, led by the Vice Chairman of the Group of Experts, were required just to reduce the number of possible alternatives considered on the definitions issue. For example, these proposals included, but were not limited to, how the Group would properly define such items as a "mine; remotely delivered mine; antipersonnel mine; booby trap; other device; military objective; civilian objects; minefield; destruction mechanism; neutralizing



mechanism; self destruction; self neutralization; and anti-handling device” (UND, 1994: 77). Regarding the “prohibitions and restrictions” issue, the Group conferred on the topics of general and specific restrictions on landmines, booby traps and other devices, as well as, the specific prohibition of certain types of mines and booby traps, agreeing to further consider these issues at the next session. After the Review Conference concluded, these two clusters of issues, "definitions" and "prohibitions and restrictions," eventually drew the consternation of International Campaign to Ban Landmine members and pro-ban advocates and in fact would be key issues during the Ottawa Process negotiations, discussed later in this study.

Soon after the second session of the Governmental Experts ended, the US Department of State released an official *Fact Sheet* announcing US efforts and initiatives towards the global landmine crisis, specifically in the areas of demining and landmine control. While noting the US military's responsible employment of landmines compliant with international law, it clearly pointed the finger at other states who the US declared would often employ anti-personnel landmines in unconventional and indiscriminate ways against non-combatant populations to generate fear, hinder refugee repatriation, and generally create turmoil in fragile governments. The *Fact Sheet* outlined the US government's "comprehensive, four-track strategy" for addressing the irresponsible use of landmines that it stated had taken such a horrible toll on innocent civilians. This high priority strategy included demining initiatives and allocated funding for such programs, efforts to strengthen Protocol II of the UN Convention on Conventional Weapons, moratoria on landmine transfers, and the establishment of a more permanent multilateral landmine control regime.

The Group of Governmental Experts held its third session from 8 – 19 August 1994. During these sessions, several working groups, based on the previously established framework of

"clusters of issues" (scope of application; definitions; prohibitions and restrictions; and verification, fact-finding and compliance) continued to analyze, discuss and explore these various issues. Reflecting a truly international effort to explore the scope and extent of the global landmine crisis, ultimately 33 States Parties<sup>14</sup> to the CCW participated in at least one of the four Group of Governmental Experts sessions; another 33 States Non-Parties<sup>15</sup> participated as observers only. In fact, as the landmine crisis was indeed a global problem, the need was recognized to include other relevant participants in the search for solutions. For example, at the invitation of the United Nations (UN) Secretary-General, as Depositary of the CCW, the International Committee of the Red Cross (ICRC) took part in the work of the Group, while other organizations, such as the Office of the UN High Commissioner for Refugees and the UN Children's Fund also participated as observers in the deliberations.

On Monday morning, 26 September 1994, during the fourth meeting of the 49th Session of the United Nations General Assembly (UNGA), US President Bill Clinton gave the speech that would, by all accounts, set the official benchmark for future US efforts in the global campaign to ban landmines. The US objective proposed by President Clinton began a debate between pro-ban advocates and the US concerning its ambiguity that continues some 12 years after he offered it to the General Assembly.

During his speech, President Clinton addressed a variety of US interests, to include, but not limited to, trade agreements, peace-keeping operations, and the growth of democracy. He

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<sup>14</sup> Australia, Finland, Norway, Austria, France, Pakistan, Benin, Germany, Poland, Bulgaria, Greece, Russian Federation, Canada, Hungary, Slovakia, China, India, Slovenia, Croatia, Japan, Spain, Cuba, Latvia, Sweden, Cyprus, Mexico, Switzerland, Czech Republic, Netherlands, Tunisia, Denmark, New Zealand, and Ukraine

<sup>15</sup> Afghanistan, Iran (Islamic Republic of), Peru, Algeria, Portugal, Angola, Ireland, Republic of Korea, Argentina, Israel, Romania, Belgium, Italy, South Africa, Brazil, Jamaica, Spain, Cambodia, Jordan, Syrian Arab Republic, Canada, Kenya, Turkey, Chile, Kuwait, United Kingdom of Great Britain and Northern Ireland, Colombia, New Zealand, Egypt, Nicaragua, Ethiopia, Oman, United States of America

also announced US efforts to advance a "wide-ranging non-proliferation agenda," which he offered would include "a global convention to halt production of fissile materials; efforts to curb North Korea's nuclear ambitions; transparent procedures for dismantling nuclear warheads; and [US efforts] to ban testing and to extend the Treaty on the Non-Proliferation of Nuclear Weapons" (Clinton, 1994a). In addition, as an initial step towards eradicating landmines in particular, President Clinton called on "all nations concerned" to join his country and "conclude an agreement to reduce the number and availability of those mines" (Clinton, 1994a). He did not elaborate for the Assembly on the precise method of reduction the US had in mind; although moratoriums on exports of landmines had already been passed in the US Senate, as well as, the General Assembly. In other words, besides moratoriums on exports, landmine "numbers and availability" could be reduced through numerous international initiatives, other than completely banning them. These other initiatives, such as moratoriums on the production of landmines or increased efforts to destroy landmine stockpiles, all highlighted alternative issues in which international negotiations could be pursued to effectively "conclude an agreement" that would reduce the amount and availability of landmines globally without totally banning them.

But it was in the context of advancing the overall US non-proliferation agenda that President Clinton proposed this "first step toward an eventual elimination" of the "world's 85 million anti-personnel landmines." Unfortunately, the ICBL pro-ban advocates chose to focus on only two words in President Clinton's speech--"eventual elimination." The attention placed on these two words during future ICBL negotiation efforts kept total ban advocates completely focused on holding the US to a "total" ban position while ignoring the fact that President Clinton had indicated in his speech to the General Assembly other negotiable issues within the landmine

debate towards solutions to the global landmine crisis, at least those the US seemed willing to pursue.

Other US leaders were quick to offer support for President Clinton's desire to eliminate landmines and end the global crisis, although full unity with him on the subject of how to accomplish this goal in a timely manner was not so clear (Leahy, 1994a; Albright, 1994; Holum, 1994). For example, Senator Patrick Leahy, in response to the President's UN speech, told the US Senate that he was "skeptical" of the administration's plan to implement "an elaborate system of rules ... and compliance procedures" to verify measures aimed at enforcing limitations on certain types of mines, but not others. In fact, because he did not believe this a realistic proposal, Senator Leahy only reluctantly offered to "support any interim measure that [would] lead to the ultimate goal of the elimination" of landmines (Leahy, 1994b: S13402).

While more than a few negotiable issues towards solutions to the landmine crisis had been offered by US leadership, internationally, progress towards the "total ban" position, one that held that only by completely banning landmines could the global crisis be solved, began to gain momentum. In the same month as President Clinton's speech to the General Assembly, United Nations Secretary-General, Boutros Boutros-Ghali, lent his voice to the global campaign against landmines. Using strong language, he stated that "advances in technology [were] worsening the global mine crisis" and that the technology of the day, such as, using plastic in mines with only small amounts of metal and employing them with complicated electronic fuses, made "them far more hazardous" for de-miners to "find and remove" (Boutros-Ghali, 1994: 10). Boutros-Ghali offered several solutions that he believed were necessary to solve the landmine crisis. For instance, repeating his earlier support towards mine clearance, he also called on the

international community to provide “strong political and legal advocacy to fight the global mine crisis (Boutros-Ghali, 1994: 12).

In commenting on the Convention on Conventional Weapons (CCW) and its protocol concerning landmines, Boutros-Ghali suggested that Protocol II, “which originally sought common ground between general humanitarian principles and the military view of mines as an effective weapon [had] shortcomings that must be addressed” (Boutros-Ghali, 1994: 12). A few of the commonly recognized “shortcomings” of the CCW that he refers include: non-applicability to internal conflicts; no provisions for enforcement; no procedures to monitor compliance; and it does not cover the issues of production, stockpiling, transfers or exports of antipersonnel landmines (UND, 1994a; Boutros-Ghali, 1994: 12). However, the UN Secretary-General’s strongest statement came as a compellingly testimony of his support for the International Campaign to Ban Landmines organization and its pro-ban advocates when he offered that:

Strengthening the [CCW] and the landmines protocol, enacting export bans, and working to put mines in the same legal and ethical category as chemical and biological weapons are all critical for solving the global mine crisis, but ultimately, and urgently, the world needs to establish an international convention on mines.

Its purpose should be to reach agreement on a total ban on the production, stockpiling, trade, and use of mines and their components. *Only in this way* [emphasis added] can the international community make sustained headway against the killing, maiming, and societal destruction caused by these terrible weapons (Boutros-Ghali, 1994: 13).

Although the international community was navigating towards a single solution alternative for solving the crisis, the US Ambassador to the United Nations, Madeline Albright, indicated in an October 1994 speech to the UN General Assembly that the US was still open to a wider range of negotiable issues other than a completely total ban position on solving the landmine crisis. She stated that the US looked forward to the United Nations “continued support

for measures to restrain trade in deadly anti-personnel landmines; too many civilians—especially, too many children--have been killed or maimed by these indiscriminate, inexpensive tools of terror (Albright, 1994). In her speech, Ambassador Albright announced for any would be pro-ban negotiators that the US supported a “broad and continuing international discussion aimed at establishing a working consensus and partnership” to solve the global landmine crisis and that the US would “continue to contribute its own ideas and ... continue to listen with care to the ideas of others” in efforts towards negotiable solutions (Albright, 1994: 25).

In the afternoon on 3 November 1994, during the 12<sup>th</sup> meeting of the First Committee, of the 49<sup>th</sup> session of the UN General Assembly, Senator Patrick Leahy introduced, on behalf of the United States (US), a draft resolution entitled “Moratorium on the Export of Anti-personnel Landmines” (UNGA, 1994c). As Senator Leahy stated in his speech, the draft resolution called on “all States that [had] not yet done so, to declare a moratorium on the export of anti-personnel landmines” and requested the UN Secretary General prepare a report on progress towards implementing the moratoriums (UNGA, 1994d). The draft resolution encouraged further international efforts to seek solutions to the global landmine crisis, with a view to their eventual elimination. It also urged other States which had not done so to adhere to, as described by Senator Leahy, the “inhumane weapons Convention and its Protocols,” specifically Protocol II which governed the use of anti-personnel landmines and their related devices (Leahy, 1994c).

In conjunction with the security interests that States and their militaries had with limiting the use, production, or exporting of landmines, the humanitarian aspect of the global crisis was gaining momentum as a viable rationale for quickly solving the landmine problem. As the campaign progressed, these two interests, security and humanitarian, would frame the overall negotiating efforts of global landmine crisis. In fact, the positional bargaining of the negotiating

participants of the international campaign to ban landmines would eventually develop into a dyadic standoff. But, during his speech to the Assembly, Senator Leahy cited other interest areas in which negotiations to solve the global crisis, had they been pursued, offered the international community alternate possibilities for agreements. As acknowledged by Senator Leahy:

Land-mines are an economic development issue ... and an environmental issue. Every week, hundreds of people are killed or maimed by these cruel, indiscriminate weapons. The economic consequences of land-mines are devastating for poor, developing nations, where they are so widely used today. It will cost the international community tens of billions of dollars just to clear the mines that are already in place (UNGA, 1994c).

As it stood, the intent of the US's draft resolution being offered to the United Nations was to "put all countries on record in support of the eventual elimination of" landmines. And though the resolution would be considered a "major step forward," as Senator Leahy pointed out to the Committee members present, a fully supported "goal of eventual elimination" was first necessary in order to then "develop an effective approach" towards solutions to the crisis. But Leahy offered no detailed definition of what the United States considered "effective" approaches towards the goal of the eventual elimination of anti-personnel landmines, although he did state that "stopping the proliferation of [landmines]" would be "one of the most effective steps." This statement suggested that the US, especially in its efforts to seek solutions to the landmine crisis through heavy support of export moratoriums, saw the global problem as more than just a humanitarian issue (UNGA, 1994e). After Senator Leahy, next to address the First Committee was Mr. Johan Molander, Deputy Under-Secretary of the Foreign Ministry of Sweden and 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*.

Mr. Molander presented to the First Committee the state of negotiations in the Group of Government Experts. But rather than discuss the Group's report and progress through its first three meetings, he spoke of the challenges the Governmental Experts faced in reference to their negotiations to find solutions to the global landmine crisis. Mr. Molander acknowledged the importance of previous United Nations resolutions on export moratoriums and mine clearance efforts as short term measures to overcome the landmine "plague." More importantly, he held that the forthcoming Review 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* (CCW) "must have an impact over the long term" and declared that Protocol II of the CCW, which the Group of Experts had been charged with developing possible amendments to, had a major flaw—not that it was imperfect, which he thought it was, but that it was not being adhered to by the States Parties which had agreed to the Convention. He went on to confirm his agreement with UN Secretary-General Boutros-Ghali that "there [was] no one single solution to the problem" (UNGA, 1994e).

Besides his confirmation that a multi-dimensional approach to the CCW negotiations was necessary to combat the landmine crisis, the Chairman disclosed another important and fundamental aspect of the state of the Group of Experts' negotiations. As Mr. Molander clearly stated:

The revision of Protocol II, on land-mines, with which the Group of Governmental Experts has been entrusted, is a complex and formidable task. In essence, the inhumane weapons Convention [CCW] is part of humanitarian law, specifically the laws of war. At the same time, in the course of our work, a number of elements have been introduced that, more often than not, have been taken from disarmament law (UNGA, 1994e).

The Chairman then acknowledged that "experts on humanitarian law and experts on arms control do not always speak the same language" and suggested that it would "be useful if delegations



were to include people with expertise in both fields to a greater extent” (UNGA, 1994e). Mr. Molander declared that it was useless to further debate the issue of whether the CCW was a humanitarian law treaty or a disarmament one and announced that the Group of Experts had “set out on a path [to combine] both elements” in their discussions and negotiations. The Chairman then suggested to the First Committee members present, as well as, any future negotiators, that “delegations should be equipped to respond to” the dual nature of the CCW if they expected to “present to the Review Conference a limited and well-developed set of options” (UNGA, 1994e). After addressing several subject areas covered in the Group’s preparatory work, Mr. Molander concluded by urging States to study, before the final meeting of the Group of Governmental Experts in January 1995, as well as, prior to the Review Conference of the CCW scheduled in late 1995, “the texts [of the CCW] at high levels in their legal, foreign affairs and defense establishments, in a constructive and result-oriented way.” He then informed future delegations to the Review Conference to be “prepare[d] for substantive negotiations on several of the outstanding issues” (UNGA, 1994e).

In December 1994, the US Department of State's Office of Humanitarian Demining Programs released its report, *Hidden Killers 1994: the Global Landmine Crisis*. The report offered detailed "steps taken by the United States to help solve the landmine problem" and stated that the US would "continue to work closely with other governments, the United Nations, and private relief organizations in a multi-faceted approach to addressing the problems caused by this most deadly debris of war" (DoS, 1994). In the preface of the report, Secretary of State Warren Christopher acknowledged that "antipersonnel landmines pose an enduring threat to post-war reconstruction around the world" and that "these weapons continue to take thousands of innocent

civilian lives every year, even in those countries where conflicts have ceased" (Christopher, 1994).

In fact, *Hidden Killers* was the first governmental report to quantify the magnitude of the landmine threat in terms of mines laid and mine-related deaths and injuries. Offering to solve the landmine crisis through a multi-faceted approach, the United States leadership, similar to the conclusions previously presented to the United Nations by the Chairman of the Group of Governmental Experts, clearly realized the scope of issues within the global landmine crisis and the complexity in achieving an international solution. Although focused towards States that manufactured landmines, such solutions offered included export moratoriums, international agreements concerning landmine use and expected contributions towards demining programs. According to the report, the US urged "countries that manufacture antipersonnel mines to adopt export moratoria" and encouraged them "to become parties to the international convention governing landmine use," as well as, to make "contributions to multilateral mine clearance programs in those countries that must contend with this man-made scourge" (Christopher, 1994).

### **International Reaction To The Group Of Experts' Final Report**

The Group of Governmental Experts held its final session from 9 – 21 January 1995. At the conclusion of its final session, the Group adopted its Final Report, which the Group would present to the Review Conference of the Convention on Certain Conventional Weapons (CCW) scheduled for September 1995. The Final Report included: a draft provisional agenda for the upcoming Review Conference; a draft of the "Rules of Procedure" to be followed during the negotiations; the Chairman's "Rolling Text" on proposed amendments to Protocol II of the Convention, the one which specifically dealt with landmines and reflected agreed upon dialogue based on the work of the Group from previous sessions; and a draft Protocol on blinding

weapons. Also during its final meeting on 20 January 1995, the Group of Governmental Experts unanimously nominated Ambassador Johan Molander of Sweden, Chairman of the Group, as the President of the Review Conference.

Organizations and individuals with specific interests in solving the global landmine crisis followed the work of the Governmental Group of Experts and quickly expressed their reactions to the Group's work and the proposals it was planning to present to the First Review Conference of the CCW slated to begin negotiations in September 1995. The International Committee of the Red Cross (ICRC) served as an observer to the Group of Experts working group meetings. Upon release of the Group's Final Report, the ICRC expressed concern about the "mixed results" of the Group of Governmental Experts and their proposed amendments for the Review Conference of CCW (Maresca and Maslen, 2000: 328-331). While the ICRC insistently maintained its total ban position as "the only clear and effective" solution to the global landmine crisis, it proposed that, at a minimum, States should ban all antipersonnel landmines that lacked effective self-destruct mechanisms. As well, in order to ensure the protection of non-combatants and assist mine clearance efforts, the ICRC proposed, in line with its own humanitarian interests, that States take certain necessary steps to achieve these objectives. These steps included, again at a minimum: the prohibition of "all mines which are not easily detectable and prescribe specific technical characteristics"; the extension of the Convention on Certain Conventional Weapons (CCW) "to cover all internal armed conflicts"; the incorporation into the CCW of "effective implementation mechanisms which make use of independent international supervision"; the search for "ways to encourage implementation of the [CCW] by States and compliance with it by all parties to armed conflicts"; and the search for "ways, including positive incentives, to encourage universal adherence to the [CCW]" which, at the time, had only 42 States Parties

(Maresca and Maslen, 2000: 330-331). Senator Patrick Leahy, considered by many at the time to be the leading voice of the US in the international landmine debate, fell short of offering his full support of the Group of Experts' results. Although, at the time, Senator Leahy believed that while the Group of Experts' proposals would help reduce the number of civilian victims of landmines, it would be necessary to go so far as to stigmatize antipersonnel landmines before they could be completely eliminated. Notwithstanding the detailed deliberations of the Group of Governmental Experts, it was clear from these reactions that participants in the global landmine debate were not yet close to reaching amiable solutions, although it appeared they all were seeking the same result—the eventual elimination of the international scourge caused by landmines.

### **Treaty Document 103-25**

Congruent with the new US arms control initiatives, the ratification of Treaty Document 103-25, 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) was a significant topic of discussion and interest for US leaders at the start of 1995 (Christopher, 1995; Holum, 1995). Although President Clinton had previously submitted the treaty and its two accompanying Protocols, one on Non-Detectable Fragments (*Protocol I*) and another on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (*Protocol II*), to the US Senate in early 1994, the treaty remained in the Committee on Foreign Relations for a whole year. The Committee's report on the document was not recommended to the full Senate for advice and consent until 16 Mar 1995.

In the report submitted to the US Senate, the Committee on Foreign Relations noted the upcoming Review Conference of the CCW, scheduled later in the year, and offered that the

United Nations Conference on Disarmament's primary purpose [for the Review] was the consideration of improvements to the CCW and its Protocols. More importantly however, as mentioned by Senator Lugar (R, IN), was the matter that the US could "be a full participant *only* [emphasis added] if it deposits its instrument of ratification six months in advance of the Conference, which would be, effectively, March 25, 1995" (US Senate CFR, 1995: 15). In other words, if the US wanted to be a full participant at the Review Conference, "in order to pursue improvements in the Convention, particularly with regard to landmine provisions" then the US Senate had approximately one week to consider the Committee's report, along with its recommended conditions, and push the treaty through for ratification (US Senate CFR, 1995: 15). But before that could happen, another pressing concern would need to be overcome before full consideration of the Convention could take place. Specifically, while the Foreign Relations Committee members were confident they could finish deliberations and take up the Convention by its next business meeting, it was evident from the expert testimonies given during the Senate ratification debate that the current US Administration was very much concerned about Protocol III, which dealt with incendiary weapons. These weapons were a major concern to the Administration because they were highly valued as a vital defense against biological threats and would therefore continue to be as important to its security interests as anti-personnel landmines would during the CCW negotiations.

On Tuesday, 7 March 1995, at 10 a.m., the Senate Committee on Foreign Relations, presided over by Senator Richard Lugar, held a public hearing to hear testimonies for the purpose of considering the CCW. Witnesses who provided expert testimony to the Senators were Mr. Michael Matheson, Principal Deputy Legal Adviser at the Department of State and the United States' representative to the preparatory meetings for the CCW's Review Conference,

and General Michael Byron, Vice Director of the Strategic Plans and Policy Directorate at the Joint Chiefs of Staff. Stressing the importance of prompt and favorable ratification of the CCW, Mr. Matheson stated that not doing so would badly compromise “the ability of the United States to effectively press forward with its various landmine initiatives” and would “inevitably cast doubt on the seriousness of the US commitment to dealing with the landmine problem as a whole and would erode the credibility of our various proposals on land mine use, export and clearance” (US Senate CFR, 1995: 19).

Although more than a decade had passed since US had signed the 1980 Convention on Conventional Weapons (CCW), Senate members nevertheless found themselves in a situation that required them to quickly consent and ratify the CCW within weeks. In fact, one of the major causes pro-ban advocates within the ICBL attributed to the great proliferation of landmines in the world during the previous decade was the lack of full international support of the CCW, which at that time numbered only slightly more than 40 States Parties. This situation did not go unnoticed by Senator Lugar, who questioned Mr. Matheson and General Byron about why the United States Senate found itself in such a dilemma. As shown in this Senate testimony, the lack of support from the US government of the CCW was not so much its seemingly nonchalant approach to curbing the proliferation of landmines as it was towards other conventional weapons it deemed more vital to national security:

**Senator Lugar** - Let me begin by asking for general background. The Convention was signed on behalf of the United States April 8th, 1982, but was not submitted to the Senate until May 12th, 1994. What was the reason for that 12-year delay?

**Mr. Matheson** - The reason had nothing to do with the provisions which we have submitted to you. Rather, it dealt with the incendiaries Protocol, which we have, for the time being, reserved. And the reasons for those concerns were military in character and related to the desire of the military to preserve certain options concerning the use of

incendiaries that would be precluded by parts of the incendiaries Protocol. And maybe General Byron would like to elaborate on that point.

**General Byron** - Let me just quickly refer to my notes, sir. The Joint Staff view on Protocol III is that there are some significant flaws, and it unduly constrains U.S. forces. The administration, as you know, did not submit Protocol III for ratification because of the objections of the Joint Chiefs and the commanders of our combatant commands. Specifically, Article 2 of the Protocol prohibits air-delivered incendiary attack in all circumstances on a military objective located within a concentration of civilians.

This is the wording from the protocol. However, in our view, the U.S. must retain the ability to employ incendiary weapons against certain types of high priority targets. In particular, these are the only weapons that can destroy high priority counter-proliferation targets such as biological weapons facilities where deadly agents would risk heavy civilian casualties if not destroyed by extremely high heat.

**Senator Lugar** - So in any event, the administration has accepted the views of the Joint Chiefs which have been expressed, I gather, for really 12 years consistently, submitted Protocols I and II and if those—that ratification is deposited by March the 25th, it still gives us an opportunity to participate in the Review Conference, is that correct?

**Mr. Matheson** - Yes. That is correct because the Convention specifically recognizes that a state need only accept two of the three Protocols on ratification. And the JCS concerns will be referred for further study within the administration (US Senate CFR, 1995:22).

Contrary to the opinions and views of numerous pro-ban advocates in the ICBL, US leadership believed that even though its government had not ratified the CCW, current and past US policies and military practices were not responsible for the current global landmine crisis, made clear in this exchange between Senator Lugar, Senator Pell (D-RI), and Mr. Matheson:

**Senator Lugar** - This Protocol has been in force for a dozen years, but does not seem to have lessened the danger to civilians from the use of land mines. Why do you believe this is so?

**Mr. Matheson** - The main reason is that it has not been applicable in the conflicts where most of these casualties have occurred, either because the states in question have not been a party or because they were internal conflicts not covered by the Convention. If the Convention had been applicable, we believe it would have substantially reduced civilian casualties; although, as we have said, it is not entirely adequate. And we need to improve it.

**Senator Pell** - What military activities might [the US military] engage in that would be prohibited by this Protocol?

**Mr. Matheson** - Well, as we have said, the landmines Protocol as it presently stands is perfectly consistent with US military plans and operations. If we were to go beyond our own military doctrine and to use mines in ways which would be prohibited by the Protocol then, of course, that would be a violation. That would include indiscriminate use of mines, and failure to mark and record the location. But these are not within our contemplation because our military already complies with these standards (US Senate CFR, 1994:24).

Although less than a year has passed since President Clinton announced the US objective of an eventual elimination of landmines, his Administration was hesitant to claim a total ban position at this point in any international negotiations, evident in this excerpt from the Senate CCW ratification deliberations:

**Senator Lugar** - Why is the administration not proposing a total ban on anti-personnel mines?

**Mr. Matheson** - As you probably know, the President said in his speech to the UN General Assembly last fall that it is our ultimate objective to eliminate anti-personnel mines. And of course, we can reach that kind of eventual goal more readily when we develop practical and humane alternatives. But for the present, many military forces, including the United States military, do rely upon land mines for some important military functions which are legitimate if they are conducted in accordance with the rules of humanitarian law.

So instead of a total prohibition at this time, we are pressing for a series of various protections, both in this Convention and elsewhere, to try to reduce the threat to civilian populations, primarily by discouraging the use of mines which have long lives and, therefore, would remain a threat to the civilian population after the conflict is over (US Senate CFR, 1995:27).

Although short of declaring a total ban position, the US seemed committed to its strategy towards solutions to the global landmine crisis, evident by its diversified policy, which contained a number of different initiatives, such as export moratoria, a proposed landmine control regime, and international demining programs.



Besides the recommendation that the US only consider Protocols I and II, the Committee on Foreign Relations offered in its report to the Senate the following additional seven conditions for consideration before ratifying the treaty:

(1) A statement that the fourth paragraph of the Preamble, which refers to the substance of two provisions of Additional Protocol I to the 1949 Geneva Conventions (a separate Law-of-War agreement on international armed conflicts) applies only to States which have accepted those provisions. The two provisions in question would prohibit methods of warfare that are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment. The U.S. military has raised concerns about the possible effect of these provisions on military operations. The issue is being considered as part of the Administration's ongoing review of Additional Protocol I to the 1949 Geneva Conventions. (That Additional Protocol has not yet been submitted to the Senate.)

(2) A declaration that the provisions of the Convention on so-called national liberation wars will have no effect.

(3) A declaration that the United States will instead apply the Convention to all armed conflicts covered by the 1949 Geneva Conventions. In effect, this would constitute a reservation to the provisions of the Convention that would give so-called liberation movements the same status as governments if they accept and apply the Convention. The Administration takes the view that this would inject subjective and politically controversial standards into international humanitarian law. Instead, the Administration proposes that the United States declare its intent to apply the provisions of the Convention to all armed conflicts, whether international or internal, without regard to their political character.

(4) An understanding that the provision of the landmines Protocol on booby-traps in the form of harmless portable objects does not prohibit the adaptation, for use as booby-traps, of portable objects created for another purpose. This is consistent with the language of the Protocol. It simply makes clear that the option is available to create field-expedient booby-traps provided they meet the further requirements of paragraph 1(b) of Article 6. This provision prohibits attaching or associating booby-traps with certain items such as children's toys.

(5) A declaration that any amendment to the treaty, including the formation of any commissions, and any submission of Protocol III, must be submitted to the Senate for its advice and consent;

(6) A declaration that acknowledges that there are concerns about the acceptability of Protocol III regarding the use of incendiary weapons from a military perspective at this time that require further study by the U.S. Government. The Senate urges a report on this

study when amendments to the Convention are presented for the Senate's advice and consent; and

(7) A statement that the Senate recognizes the President's intention to negotiate certain specified conditions at the upcoming Review Conference in September, 1995 (US Senate CFR, 1995: 6-7).

Senators Strom Thurmond and Sam Nunn, Chairman and Ranking Member, respectively, of the Committee on Armed Services, presented a letter to the US Senate (Appendix B) addressed to the Chairman of the Senate Foreign Relations Committee, Senator Jesse Helms, expressing their concerns about the CCW treaty offered for advice and consent by President Clinton. The letter stated that the Armed Services Committee had "conducted a brief review of the military implications of the Convention on Conventional Weapons" and had acknowledged that for "for humanitarian purposes, the Convention [was] intended to restrict the use of specific types of conventional weapons in armed conflicts, specifically, landmines and booby-traps" (Cong Record, 1995: S4569). More importantly for the consideration of the full Senate, the letter also outlined specific concerns that, similar to those of the Foreign Relations Committee, included "the effectiveness of the Convention having been ratified by only 42 States Parties; the future amendments to the Convention, that are meant to improve its effectiveness; and, the impact of Protocol III on NATO operations" (Cong Record, 1995: S4569).

In light of the previous concerns, the Armed Services Committee presented two other concerns in their letter to the Senate. Specifically, committee members were "concerned about the [Clinton] Administration's plans for amendments to the Convention, particularly the establishment of a Commission" and believed that it was "important to ensure that a large, expensive bureaucracy [was] not established and that the precedent-setting nature of an enforcement commission [would have to] be carefully considered." Also, the Committee held

that “command-detonated Claymore-type mines must be excluded from the coverage of any future amendments intended to tighten restrictions on the use of landmines” (Cong Record, 1995: S4569). Despite these expressed concerns, the Senate Committee on Armed Services offered their advice and consent to the ratification of the Convention on Conventional weapons treaty.

### **Senator Leahy’s Landmine Use Moratorium Act**

While US Congressional leadership had been more than willingly to pass legislation concerning landmine exports as a solution to curbing the global landmine crisis, extending that reach into other areas, such as banning the use or production of landmines, had not been tested up to that point. On 16 Jun 1995, Senator Patrick Leahy (D-VT) introduced such a bill, S940, the *Landmine Moratorium Act*. The bill’s stated purpose was to:

... support proposals to implement the United States goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes (Cong Record, 1995a).

According to Senator Leahy, the bill was aimed to pressure US leadership to address what Leahy and other total ban advocates saw as a “global humanitarian catastrophe, the maiming and killing of hundreds of thousands of innocent civilians by landmines” (Leahy, 1995: S10481). More specifically, it was meant to:

- (1) Direct the President to support, at the 1995 United Nations review conference, proposals to modify Protocol II to the 1980 Conventional Weapons Convention to implement the U.S. goal of the elimination of antipersonnel landmines.
- (2) Declare a U.S. moratorium, for a one year period beginning three years after enactment of this Act, on the use of such landmines except along internationally recognized national borders within a perimeter marked area monitored by military personnel and protected by adequate means to ensure the exclusion of civilians. Urges the President to encourage other nations to join in such moratorium; [and]
- (3) Prohibit the United States from selling, licensing for export, or transferring any defense article or service to a foreign country that sells, exports, or transfers

antipersonnel landmines. Authorizes the President to waive such prohibition, after notice to the Congress, if an emergency exists which makes such waiver vital to the interest of the United States.

Despite the humanitarian intentions of Senator Leahy's legislation, within a month of being introduced, the bill drew heavy criticism from pro-military supporters in Congress. In response, Senator Leahy attempted to offer clarification to his fellow Senators, stating:

... let me repeat. This is not a prohibition; it is a moratorium that does not begin for 3 years. It does not cover Claymore mines. It does not cover antitank mines. Our troops have every weapon that shoots or explodes. We have far better ways of tracking the enemy than ever before. We have the most accurate weapons. We are dealing with a global catastrophe. People everywhere are demanding an end to this madness. The U.S. Senate has led the way. We should continue to lead. This is not a weapon we need for our national security. It is a terrorist weapon used most often against the innocent (Leahy, 1995: S11372).

Concerns were raised that this sort of legislation would start a "slippery slope" from future legislation towards banning other weapons systems, thus limiting tactical options for the military in warfare (Muller, 2005). One such deliberation (Appendix C), representative of the disparate positions within the debate, took place between Senators Leahy, John Warner (R-VA), Chair of the Committee on Rules and Administration, and Sam Nunn (D-GA), Ranking Member of the Committee on Armed Services. As Senator Nunn summarized, there was "considerable confusion about [the] amendment"—strongly supported by Senator Leahy--and that "whatever happens on this vote," the Senators were "going to have to do some work on it in conference," if it passed through Congress (Cong Record, 1995b: S11425 - S11426). Despite clear opposition from Congressional cohorts who believed Senator Leahy and other pro-ban advocates had gone too far in their efforts to ban landmines, the *Landmine Moratorium Act* passed the US Senate with a 67-27 vote on 4 Aug 1995. Notwithstanding the slightly less than 2-1 margin and in spite of the dissimilar positions concerning the intent and scope of Leahy's legislation, the *Landmine*

*Moratorium Act* was eventually signed into law by President Clinton on 12 Feb 1996. But this would not be the final outcome of Leahy's bill, as will be discussed in the next chapter.

Meanwhile, the US military continued to voice concerns about the Congressional legislation that focused on landmines. During the Tuesday, 15 Aug 1995, afternoon news briefing held by the Department of Defense, spokesman Kenneth Bacon clearly expressed the US military's position on the recent landmine legislation. Responding to a question in reference to the Pentagon's view on the *Landmine Moratorium Act*, Bacon stated that the Department of Defense was "opposed to this legislation for two reasons. First, landmines remain integral to US war fighting methodology, and the prohibition on the use of anti-personnel mines would too severely limit our effectiveness" and "secondly, if [the US] government were to refrain from providing military equipment to allies that export APLs [anti-personnel landmines] as called for in the proposed legislation, the US would risk an adverse impact on its military relationships with allies" (DoD, 1995).

### Summary

This chapter discussed the events which took place during the early stages of the negotiation efforts of the global campaign to ban landmines. After the unanimous vote in the United Nations General Assembly that passed Resolution 48/79, the international community then began to solidify positions within the anti-personnel landmine ban debate. Concurrently, solutions began to surface among campaign participants on how best to solve the global landmine crisis. Among these solutions was the growing chasm between the United States position and that of the pro-ban advocates.

Two key events were discussed in this chapter in reference to the political development of the United States negotiations focus within the campaign. The first was the US Senate's

consideration to ratify Treaty Document 103-25. This event highlighted the US's *limited ban* position within the landmine debate, as well as, its desire to keep the negotiations inside the United Nations' negotiation forums. The second one was Senator Leahy's *Landmine Moratorium Act* which highlighted the limits of how far the *limited ban* advocates within the US Senate were willing to go to solve the global landmine crisis. The next chapter will discuss and analyze the negotiation efforts of the Review Conference of the CCW and the growth of the International Campaign to Ban Landmines organization.

CHAPTER 5  
THE 1<sup>st</sup> REVIEW CONFERENCE OF  
THE CONVENTION ON CONVENTIONAL WEAPONS

**Introduction**

This chapter presents events that occurred during the negotiation efforts of the global campaign to ban landmines from early 1995 through mid-1996. As stated in the previous chapter, *"Towards the Review of the Convention on Conventional Weapons,"* this study distinguishes all US negotiation efforts between the first sessions of the Review Conference 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* (CCW), which began on 25 Sep 1995, until final US participation in the *Diplomatic Conference on an International Total Ban on Anti-personnel Landmines* (commonly referred to as the *Oslo Conference*) in Oslo, Norway on 1-18 Sep 1997, as representation of the United States' "negotiation" stage. Since the negotiations extended over several years, this chapter ends about midway through the US's "negotiation" stage. Discussion of further US landmine initiatives and negotiations follows in depth in Chapter 6, *The Ottawa Process* and Chapter 7, *The Diplomatic Conference to Ban Landmines*.

Also mentioned in the previous chapter, the International Campaign to Ban Landmines (ICBL) organizational campaign efforts and selected pro-ban advocates discussed in this chapter are considered to be in their "pre-negotiations stage." In fact, all ICBL efforts discussed in this study, leading up to the conclusion of the *International Strategy Conference towards a Global Ban on Anti-personnel Mines* in Ottawa, Canada, (commonly referred to as the "Ottawa Conference") on 5 Oct 1996, are considered inclusive of the pro-ban advocates' "pre-negotiations." For pro-ban States that held a "total ban" position, their "pre-negotiation stage" is

not as transparent because some of them also negotiated in the United Nations Conference on Disarmament (CD) during the 1<sup>st</sup> Review Conference of the CCW. In addition, Canadian Foreign Affairs Minister Lloyd Axworthy's announcement at the end of the Ottawa Conference, to seek an international ban agreement within a year, is generally considered the official start of the "Ottawa Process." Therefore, from Oct 1996 to the conclusion of the *Oslo Conference* the following year, the Ottawa Process negotiation efforts of the pro-ban advocates are considered as their "negotiation" stage and their negotiations will be fully explored in Chapter 6, *The Ottawa Process*.

### **International Initiatives**

On 17 Mar 1995, the UN Secretary General requested Member States submit a report to the General Assembly that described the particular initiatives implemented in response to UN Resolution 49/75 D, entitled "*Moratorium on the Export of Anti-personnel Landmines.*" By the time the first Review Conference of the CCW began on 25 Sep 1995, numerous States, as well as, regional organizations, such as the European Union, had taken specific measures towards limiting the export of anti-personnel landmines. Although many States had never produced, traded, or exported anti-personnel landmines in the first place, the majority of those who submitted reports to the UN fully supported the aim behind an international moratorium. But based on several reports submitted, not every Member State of the UN held similar positions towards the intentions and objectives of Resolution 49/75 D.

As an example, the Government of Australia stated in its report, dated 15 May 1995, that since it did not produce anti-personnel landmines, to declare an export moratorium would be "redundant" (UNGA, 19 95: 11). Australia's report went on to state that it principally supported countries that imposed anti-personnel landmine exports moratoriums on those States that were



not party to the CCW, but fell short of taking a “total ban” position towards the landmine crisis. While Australia clearly sympathized with the “humanitarian intent behind unconditional bans” on exports, it viewed the export moratoriums as “an interim measure that ought not be multilateralized” (UNGA, 1995: 11). In fact, they went on to state that “since anti-personnel landmines are legitimate conventional weapons, their sale ought to be permitted, and confined, to States party to Protocol II” of the CCW, and suggested that countries such as themselves “may be forced to become producers” should landmine exports to States not party to the landmine protocol be allowed to continue (UNGA, 1995: 11).

Another example of a State that fell short of a “total ban” position was Brazil. In its report to the UN General Assembly, dated 6 Mar 95, the Government of Brazil declared that while it did in fact produce landmines on a “small scale,” it did so only for its “own legitimate” defensive objectives (UNGA, 1995: 12). Brazil clearly noted that it supported “international efforts to strengthen international humanitarian law” in response to the “irresponsible dissemination and unlawful use of landmines,” which it saw as a “grave issue” (UNGA, 1995: 12).

In agreement with Brazil, numerous States held the opinion that the global landmine crisis had been caused in large part by countries that had indiscriminately used landmines. This was contrary to the intentions of the CCW, and one key reason to have a Review Conference to strengthen Protocol II. While the United States highlighted in its report to the UN, dated 8 Sep 95, its own unilateral landmine export moratoriums, as well as, those it had introduced in the UN General Assembly during the past two years, it too, like Brazil, fell short of taking a total ban position towards the “eventual elimination of anti-personnel landmines.”

The United States believed that more steps should be taken, above and beyond export moratoriums, in order to “address the scope of problems associated with indiscriminately placed landmines” (UNGA, 1995: 19). One recommended step included increased demining efforts to clear landmines in areas such as Asia, Africa and Central America, although mine clearance efforts had already been well established in the United Nations as a legitimate initiative towards solving the global landmine crisis. For example:

Resolution 49/215 of 23 Dec 1994, entitled ‘*Assistance in mine clearance*’, the UN General Assembly requested the Secretary-General to consider the convening, as early as possible, of an international meeting on mine clearance, to include a meeting of experts and a meeting of potential donors, in order to promote the work of the United Nations and international cooperation in this field.

Pursuant to that request, the Secretary-General decided to convene an international meeting on mine clearance. The International Meeting was held at the Palais des Nations at Geneva from 5 to 7 July 1995. The objective of the International Meeting was to promote the work of the UN and international cooperation in the field of mine clearance. In order to achieve that objective effectively, the Meeting sought political and financial support for UN mine-clearance programs from the international community” (UNGA ,1995a: 3).

Another step offered by the US was the establishment of an international control regime for anti-personnel landmines. In partnership with the United Kingdom, the United States had developed a proposal which would “impose restrictions on the production, stockpiling and transfer of anti-personnel landmines, in particular long-lived anti-personnel landmines, which can explode decades after emplacement” (UNGA 1995: 19). This purpose of this joint program not only indicated the US position that the indiscriminate use of landmines was a key cause of the global crisis, but that the current crisis was also caused by the use of “long-lived” landmines (UNGA 1995: 19). This issue would later become a contentious debate between the US and other advocates of the “limited ban” position and those who believed that “all landmines” should be completely eliminated.

## The ICRC Announces Official Position

The International Committee of the Red Cross (ICRC) was an important organization and key participant in the global campaign to ban landmines, internationally recognized for its expertise in humanitarian law. Since the beginning of the campaign, the ICRC had hosted several multilateral conferences which focused on solutions to numerous aspects of the global landmine crisis. On 31 Aug 1995, in anticipation of its role as an official observer at the 1<sup>st</sup> Review Conference of the CCW, the ICRC released an official position statement in reference to the issues to be discussed and negotiated at the Review Conference.

First, the ICRC maintained its position that “the only clear and effective means of ending the suffering inflicted in civilians by anti-personnel landmines [was] their total prohibition.” Secondly, the ICRC offered that the “type of complex measures” previously considered by the Group of Governmental Experts “might have a modest affect on the level of civilian mine casualties” (ICRC, 1995a: 363-367). But in reference to the “exceptions and exclusions being suggested by some States” prior to the Review Conference, the ICRC strongly stated that a “new control regime risk[ed] having no substantial effect on the overall problem of landmines and could even lead to an increase in the use of and trade in” these weapons (ICRC, 1995a: 363-367).

The ICRC then offered that the following “certain essential minimum steps” should be taken by the Review Conference:

- extend the 1980 Convention on Certain Conventional Weapons [CCW] to cover all internal armed conflicts;
- incorporate into the [CCW] effective implementation mechanisms which make use of independent international supervision;
- find ways to encourage implementation of the [CCW] by States and compliance with it by all parties to armed conflicts; and

- find ways, including positive incentives, to encourage universal adherence to the [CCW] which, at this date [1 Jul 95], has only 50 States Parties (ICRC, 1995: 363-367).

Acknowledging the elimination of anti-personnel landmines would “be a long-term goal which [needed] to be pursued with determination and firm commitment over a period of years,” the ICRC also announced prior to the Review Conference that “over the next few years,” it planned to intensify its efforts to “raise public awareness of the landmine crisis and build an international momentum towards the goal of stigmatizing and eventually outlawing these indiscriminate weapons” (ICRC, 1995b). In fact, the ICRC extended an invitation to governments and other organizations to join them in “mobilizing their human, financial and political resources in a long-term commitment” to accomplish the following initiatives:

- the stigmatization and eventual total prohibition of anti-personnel landmines;
- a significantly increased commitment, by the [ICBL] and national and international bodies, to the care and treatment of victims of landmines; and
- a major increase in national and international mine clearance programs (ICRC, 1995b).

### **US Announces Proposals for the Conference**

Officially, the US was “gravely concerned with the humanitarian tragedy of suffering and casualties to the civilian population” caused by the “indiscriminate use of landmines” (DSBPA, 1995: 710). This statement in itself offered enough common ground on which the ICBL and other pro-ban states could seek a negotiated agreement with the US in order to find solutions to the global landmine crisis. The focus on positions rather than participants’ interests during the campaign negotiations eventually closed this particular door of opportunity to put the landmine problem on the table.

On the opening day of negotiations, the US Department of State issued a *Fact Sheet* that detailed the improvements to Protocol II the US government intended to propose at the 1<sup>st</sup>

Review Conference of the CCW. A major element of the US strategy towards this global crisis, as stated in the release, was to “encourage substantial improvements in the substance and scope” of Protocol II of the CCW, which it considered the “only international legal regime that specifically regulate[d] and restrict[ed] the use of landmines” (DSBPA, 1995: 710). According to the *Fact Sheet*, the US hoped to negotiate for the following seven improvements:

- 1) The expansion of the scope of the Protocol, which is currently limited to international armed conflicts, to apply in internal armed conflicts, as well as, during peacetime;
- 2) A requirement that all remotely delivered mines (those delivered by aircraft, rocket, or artillery) be equipped with self-destruct devices to ensure that they do not remain a danger to civilians long after the conflict is over. These mines would also have a backup self-deactivating feature (e.g., a battery that exhausts itself) to ensure that they do not detonate should the self-destruct device fail;
- 3) A requirement that any anti-personnel landmines without self-destruct devices and backup self-deactivation features be used only within controlled, marked, and monitored minefields. These minefields would be protected by fencing or other safeguards to ensure the exclusion of civilians. Such minefields could not be abandoned (other than through forcible loss of control to enemy military action) unless they were cleared or turned over to another State that had committed to maintain the same protections. [Anti-personnel landmine] self-destruct and self-deactivation features would have a specified maximum lifetime of 30 days from emplacement for self-destruct and 120 days for the self-deactivation feature, as well as, a minimum required reliability;
- 4) A requirement that all mines be detectable using commonly available technology to simplify the burden and risks of demining;
- 5) A requirement that the party laying mines assume responsibility for them, including a duty at the ‘cessation of active hostilities’ to clear them or maintain them in controlled fields to protect civilians. Where the party laying the mines no longer controls the territory in which they were laid, it would have a duty to provide assistance to ensure their clearance, to the extent this is permitted by the State in control of the territory in question;
- 6) The addition of an effective verification mechanism, including the possibility of fact-finding inspections by a Verification Commission where credible reports of violations have been made. If violations are found to have occurred, there would be a possibility of reference to the UN Security Council for action, as well as, individual criminal liability for persons who willfully or wantonly put the civilian population in danger. There must also be a provision for protection against abuse of such a regime; and

7) The addition of a mechanism for more frequent consideration of the landmines protocol and for exchange of views on all aspects of the landmine issue (DSBPA, 1995: 710).

In addition, the US believed the Review Conference of the CCW was “an important opportunity to begin to solve the landmine crisis” and welcomed further discussions on “landmine-related initiatives and issues” (DSBPA, 1995: 710). The US delegation team to the 1<sup>st</sup> Review Conference was led by Ambassador Michael J. Matheson, Principal Deputy Legal Adviser, US Department of State, and included various interagency experts from organizations such as the Office of Humanitarian and Refugee Affairs, Office of the Secretary of Defense, US Department of Defense; the Advanced Projects Office, US Arms Control and Disarmament Agency; the US Navy, International Negotiations Joint Staff, US Department of Defense; the Bureau of Political-Military Affairs, US Department of State; and the US Army (UNGA, 1996: 23-25).

### **The 1st Review Conference Of The CCW Opens**

The Group of Governmental Experts resolved to hold the first session of the Review Conference in Vienna, Austria from 25 Sep to 13 Oct 1995. The main purpose of the Review Conference was to strengthen Protocol II of the CCW, which dealt with landmines. The Conference was called to order at 3:30 p.m. on Monday, 25 Sep 95 by Ambassador Johan Molander of Sweden, the Chairman of the Group of Governmental Experts, who was subsequently chosen by acclamation to be the President of the Conference. During the first session, which included eight plenary meetings, the Review Conference adopted its agenda and Rules of Procedure, as amended and recommended by the Group of Governmental Experts. The Rules of Procedure provided for the establishment of three Main Committees, a General Committee, a Drafting Committee, and a Credentials Committee. Subsequently, the Conference

unanimously elected all the Vice-Presidents<sup>16</sup>, Committee Chairmen and Vice-Chairmen of these Committees.<sup>17</sup>

### **Multilateral Participation**

Whether or not any particular State or NGO had specific interests in solving the current global landmine crisis, the significance of the CCW to the international community was evident in the number of participants present during its first Review Conference. In addition to the 44 States Parties<sup>18</sup> to the CCW that directly participated in the Review Conference, 40 States non-parties<sup>19</sup> to the Convention also participated in the Conference as observers. Reflecting the multilateral aspect of the landmine crisis, representatives of the United Nations Children's Fund, United Nations Department of Humanitarian Affairs, United Nations Development Programme, United Nations High Commissioner for Refugees, European Community, League of Arab States, International Committee of the Red Cross and International Federation of Red Cross and Red Crescent Societies were also allowed to participate in the Conference as observers. In fact, in

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<sup>16</sup> The 10 Vice-Presidents, who were members of the General Committee, were chosen from the following States Parties: Austria, Russian Federation, China, Slovakia, France, Tunisia, India, Ukraine, Mexico, and the United States.

<sup>17</sup> The Conference unanimously elected the following individuals to serve in these positions: Main Committee I Chairman Ambassador Tibor Tóth (Hungary), Vice-Chairman Ambassador Jaap Ramaker (Netherlands); Main Committee II Chairman Ambassador Jorge Morales Pedraza (Cuba), Vice-Chairman Ambassador Richard G. Starr (Australia); Main Committee III Chairman Ambassador Wolfgang Hoffmann (Germany), Vice-Chairman Mr. Peter Poptchev (Bulgaria); Drafting Committee Chairman Ambassador Mark J. Moher (Canada), Vice-Chairman Mr. Taoufik Jabeur (Tunisia); Credentials Committee Chairman Prof. Zdzislaw Galicki (Poland), Vice-Chairman Ambassador Baron Alain Guillaume (Belgium).

<sup>18</sup> These included Australia, France, Pakistan, Austria, Germany, Poland, Belarus, Greece, Russian Federation, Belgium, Hungary, Slovakia, Bosnia and Herzegovina, India, Slovenia, Ireland, Spain, Bulgaria, Israel, Sweden, Canada, Italy, Switzerland, China, Japan, Tunisia, Croatia, Latvia, Ukraine, Cuba, Liechtenstein, the United Kingdom of Great Britain and Northern Ireland, Cyprus, Mexico, Czech Republic, Mongolia, Denmark, the Netherlands, the United States, Ecuador, New Zealand, Uruguay, Finland and Norway.

<sup>19</sup> These included Albania, Indonesia, Republic of Korea, Angola, Islamic Republic of Iran, Republic of Moldova, Argentina, Romania, Bolivia, Jordan, Saudi Arabia, Brazil, Libyan Arab Jamahiriya, Singapore, Burundi, Luxembourg, South Africa, Cambodia, Morocco, Sudan, Chile, Mozambique, Syrian Arab Republic, Colombia, Nicaragua, Thailand, Egypt, Oman, Turkey, Ethiopia, Paraguay, United Republic of Tanzania, Gabon, Peru, Venezuela, Holy See, Philippines, Vietnam, Iceland and Portugal.

accordance with established Rules of Procedure, 66 NGOs also attended the public meetings of the Conference and its Main Committees.

### **The Political Atmosphere**

As Chairman Molander pointed out during the opening of the Review Conference, that while important progress had been made during the Group of Governmental Experts meetings, a “more political atmosphere,” such as offered by the Review Conference, would be necessary in order to “achieve consensus on all matters” (UND, 1996: 290). In fact, at the conclusion of the first session’s final meeting, held on 13 Oct 1995, besides noting the Credentials Committee report, the Review Conference adopted, by consensus, the text of the Protocol on Blinding Laser Weapons and the report on the organization and work of the Conference’s first session.

But in response to what the proper “political atmosphere” should be for any negotiations that sought solutions to the global landmine crisis, some pro-ban advocates still believed it would be business as usual in the UN-sponsored forum. For example, Senator Leahy suggested that the Review Conference negotiations be “held in Cambodia, or Angola, where the one-legged victims of landmines [could] be seen on every street corner” and where “negotiators could experience the constant fear of losing a leg, or an arm ... simply from stepping in the wrong place, instead of weeks of lofty speeches in air-conditioned rooms quibbling over an elaborate set of unenforceable rules” (Leahy, 1995a: S14703).

### **General Exchange Of Views**

One important portion of the Review Conference negotiations took place in the 2<sup>nd</sup> – 6<sup>th</sup> plenary meetings, during the discussions concerning Agenda Item Number 9, *General Exchange of Views*. For the first time since the global landmine campaign began, States had come together in an international negotiations forum. More importantly, these participants had the resources,



interests, and issues to be truly effective in negotiations towards a solution to the landmine crisis. A selection of representative excerpts taken from the *General Exchange of Views* sessions held on 26-28 Sep 1995, as summarized in the *Summary Reports* of the 2<sup>nd</sup> - 6<sup>th</sup> meetings, are included in Appendix D for review. The numerous governmental statements and organizational positions presented to the Review Conference during the *Exchange of Views* sessions clearly exhibited the dynamic nature of the participants' views towards the expected purpose and objectives of the Conference, as well as, their individual positions relevant to the negotiations to solve the global landmine problem.

Recognizing the possibility of a gridlock due to this dynamic, Ambassador Molander “welcomed the presence of representatives of some 50 non-governmental organizations, including victims of landmines and others who risked their lives to clear mines or dedicated themselves to the rehabilitation of victims and stimulating public awareness” and offered that while “their views might not always coincide with those of Governments, ... their experience and participation would be valuable” (UNGA, 1995b: 3). He added that “at the same time, no rule concerning the laws of war would be upheld unless it struck a balance between military requirements and humanitarian concerns (UNGA, 1995b: 3).

### **Multilateral Reaction And Response**

On the same day the Review Conference of the CCW ended its first session, the International Committee of the Red Cross (ICRC) issued a press release in response to the Review Conference results. In its statement, the ICRC clearly expressed its disappointment in the Conference for not achieving some sort of progress “on measures to prohibit or substantially restrict the use of landmines” (ICRC, 1995b). While it offered praise towards the agreements reached by the Review Conference on the new Protocol on Blinding Laser Weapons, the ICRC

also stated that it considered the Conference as “a step towards the stigmatization and elimination of anti-personnel landmines.” The ICRC went on to declare that the Review Conference had “clearly demonstrated that the international public outcry about these weapons [had] broken the consensus that they are legitimate weapons of war” (ICRC, 1995b).

In reality, this position was not universally held by all the participants in the global efforts to solve the landmine crisis. For example, numerous States, such as the US and Brazil, at this point in the negotiations, fully supported landmines as “legitimate” weapons and held that it was the “irresponsible and indiscriminate” employment of them that had been a critical cause of the current global crisis. But despite the efforts of the Review Conference, pro-ban advocates remained unbroken in their determination to totally eliminate landmines, as reflected in the statements of Mr. Goose and Ms. Williams above. In summarizing the views of the government officials who continued to regard anti-personnel landmines as legitimate weapons, Senator Leahy stated at the time, “they went on to say how much they all wanted to get rid of [anti-personnel landmines], but they each had an exception or loophole so their landmines, or their manner of using them, would not be affected” (Leahy, 1995b: S15094).

Although specific progress had been accomplished, no final decisions were achieved towards the issue of banning landmines during the first session, so the decision was made that Review Conference would continue its work in Geneva from 15 to 19 Jan 1996, as well as, convene a third session from 22 Apr to 3 May 1996 (UND, 1996: 143). Unfortunately, as time would tell, this particular forum, as well as, the interests and issues of the various States and organizations would be too diverse and dissimilar to garner truly successful negotiated agreements in the global effort to solve the landmine crisis. With that said, one week later, US

President Clinton addressed the UN General Assembly and continued to foster international efforts to “ultimately eliminate the deadly scourge of landmines” (Clinton, 1995).

In a press conference on 22 Nov 1995, ICRC President Cornelio Sommaruga announced the official launch of the ICRC and National Red Cross and Red Crescent Societies’ international media campaign on anti-personnel landmines. According to the press release, the international media campaign’s aims were to: mobilize “public opinion and political will” against the “barbarous weapons”; end the “mindless carnage” caused by anti-personnel landmines; and increase the commitment to the care and treatment of landmine victims and to mine clearance (Sommaruga, 1995). Sommaruga’s announcement represented the increased efforts of the ICRC and other pro-ban organizations, such as the NGOs within the ICBL, to reach the “goal of stigmatizing” anti-personnel landmines, as announced by the ICRC prior to the Review Conference. The international effort sought to utilize print, television and radio media to distribute, worldwide, its “*Landmines must be stopped!*” message. In his statement, the ICRC President appealed to “the media, to political leaders, and to our humanitarian colleagues to ensure that [the Review Conference of the CCW] negotiations do not continue in an environment of ‘business as usual’” (Sommaruga, 1995). Sommaruga boldly stated that the “impasse” of the Review Conference verified that there was “little political will for dramatic change and that most military powers, North and South,” still displayed resistance in the elimination of landmines from their arsenals (Sommaruga, 1995).

Landmine export moratorium initiatives continued to be the “solution of choice” for the majority of the international community. On 12 Dec 1995, the United Nations General Assembly (UNGA) adopted Resolution A/RES/50/70/O, *Moratorium on the Export of Anti-personnel Landmines*, during its 90<sup>th</sup> plenary meeting. The UNGA noted that 25 States had

already declared such moratoriums on the export, trade and sale of anti-personnel landmines and expressed its “deep concern that anti-personnel landmines kill or maim hundreds of people every week, mostly innocent and defenseless civilians, obstruct economic development and reconstruction, and have other severe consequences for years after emplacement, which include inhibiting the repatriation of refugees and the return of internally displaced persons.” In fact, the resolution went on to state that the UNGA members were “gravely concerned over the suffering and casualties caused to non-combatants as a result of the proliferation, as well as, the indiscriminate use of anti-personnel landmines” (UNGA, 1995c: 21-22).

Although no negotiations had taken place up to this point in the global campaign that “officially” approached the subject of the cause or causes of the global landmine crisis, which would be important during negotiation discussions in order to focus efforts towards actual solutions that would indeed end the problems caused by landmines and not just apply “band-aid fixes” to the crisis—of course, everyone had their opinion on this subject.. Also, no clear definition of what was meant by the “problem” caused by anti-personnel landmines had ever been “officially” determined either, again each participant in the global campaign against landmines had their own ideas. For example, according to the resolution, although the UNGA encouraged “further immediate international efforts to seek solutions to the problems caused by anti-personnel landmines,” it also recognized that States could move “most effectively towards the goal of the eventual elimination of anti-personnel landmines” once “viable alternatives” were developed and urged States to pursue these efforts on an “urgent basis” (UNGA, 1995c: 23). But while the UNGA offered “viable alternatives” as a means to an end, the “end” could problematically range from issues of inadequate medical care for landmine victims to the high human and economic costs of landmine proliferation—unless the true causes of the problem

were known, solutions would continue to be as numerous as their were participants in the debate. In fact, several times throughout the resolution, the UNGA made references for increased measures that would solve the problems caused by the “proliferation, as well as, the indiscriminate and irresponsible” use of landmines. The dilemma of defining specifically *what the crisis was* and *the causes of the crisis* made the prospect that any negotiations would able to reach a viable solution problematic.

### **Congressional Debates of the US “Landmine Use Moratorium” Act**

As discussed in the previous chapter, Senator Leahy had boldly extended his landmine ban efforts beyond previous landmine export moratoriums when he submitted the *Landmine Use Moratorium* amendment to Congress. The purpose of the amendment was “to support proposals to implement the United States goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; and to provide for sanctions against foreign governments that export antipersonnel landmine, and for other purposes.” Specifically, the *Landmine Use Moratorium Act* declared that “for a period of one year beginning three years after the date of the enactment of this Act, the United States shall not use antipersonnel landmines except along internationally recognized national borders within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure that exclusion of civilians” (Cong Record, 1995a).

Although the *Landmine Use Moratorium Act* was voted into the FY96 Defense Authorizations Bill (S.1026) on 4 Aug 1995 with a roll call vote of 67-27, and eventually into the Foreign Operations Appropriations Bill (H.R.1868), the over 2-1 Senate margin was not a clear indication that the amendment would easily end up as law. For example, in response to the landmine use moratorium, the opposition from the US military was quick and straightforward.

As Kenneth Bacon, spokesman for the Department of Defense, noted, landmines were still an “integral” part of US war-fighting tactics and the “prohibition on the use of anti-personnel mines would too severely limit [US military] effectiveness” (Bacon, 1995). In fact, the legislative journey that Senator Leahy’s amendment traveled before President Clinton eventually signed it into law on 12 Feb 1996 was anything but smooth and clearly indicated the division that still existed within the US government when it came to the subject of banning landmines.

After the US Senate passed Leahy’s amendment, the Defense Authorization Bill that it was attached to went into conference, where numerous, extraneous provisions were added that weakened it to the point that there was fear that the bill would be vetoed by President Clinton. One provision, in respect to the implementation of any anti-personnel landmine use moratorium imposed by law, established a “certification” requirement for the Secretary of Defense, who after consultation with the Chairman of the Joint Chiefs of Staff, could in effect “veto” a moratorium if it was deemed to “adversely affect the ability of the United States forces to defend against attack on land by hostile forces” and only if the US military had “systems that [were] effective substitutes for anti-personnel landmines” (Cong Record, 1995c). On 15 Dec 95, at 2:34 pm, US Representatives agreed to the conference report that accompanied the Defense Authorization Bill (H.R. 1530) with a vote of 267-149.<sup>20</sup>

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<sup>20</sup> The details of the agreement to delete the “certification” provision from the FY96 Defense Authorization bill are outlined here from the letter sent to Senator Leahy from Senator Thurmond, Chairman of the Senate Armed Services Committee: “Dear Senator Leahy: Pursuant to our discussion on the floor this morning concerning consideration of the National Defense Authorization Act for Fiscal Year 1996, I would like to recap our agreement. We have agreed that: 1. You will control 20 minutes of debate on the landmine provision and I will control the same amount of time; 2. You will not filibuster the defense authorization conference report and will not object to a unanimous consent for a time certain to vote on the defense authorization conference report and; 3. If the current version of the FY 96 Defense Authorization bill does not become law, I will do everything in my power to ensure that section 1402(b) (concerning a certification in relation to the moratorium on landmine use) is deleted from any subsequent version of the bill. If the current version of the FY 96 Defense Authorization bill is signed into law, I will do everything in my power to ensure that section 1402(b) is reversed in the next Defense Authorization bill” (Thurmond, 18 Dec 95).

Subsequently, the Senate began deliberations for the consideration of the conference report of the FY96 Defense Authorization Bill. The ensuing, and often very passionate, Senatorial exchanges (Appendix E) greatly underscored the dynamic and varied positions that landmine topic began to generate within the US government. Although Senator Leahy was a strong and well-established pro-ban advocate by 1995, several of his statements during these deliberations suggested that certain issues within his position, for example, an exception for the Korean de-militarized zone, may have been one issue in which the US and other pro-ban advocates, with Senator Leahy's support, could have reached an agreement on during landmine negotiations; but by the time of the Ottawa Process negotiations, this issue appears to have been overlooked or ignored. Another issue within Senator Leahy's pro-ban position concerning the global landmine crisis was the issue of humanitarian demining.

Notwithstanding these possible issues for agreement, the following excerpt from Senator Leahy highlights his opinion of the Pentagon's position concerning the use of *smart mines*; which was one issue that eventually became the ire of the ICBL and pro-ban advocates later in the campaign:

We can debate all day about whether landmines have a military use. Of course they do. What weapon does not have some military use? But do they save lives? I challenge anyone in the Pentagon to prove that landmines save lives.

One-third of our casualties-one-third-in Vietnam were from mines, including American mines. Our troops were casualties of their own minefields. ... a quarter of the Americans killed in the Gulf War were from mines ... twenty-six percent of American casualties in Somalia were from mines.

These are the Army's own statistics ... these [landmines] are the Saturday night specials of civil wars. We have a lot more to gain if we declare their use a war crime. The Pentagon says it did not create this problem and that halting our use of these weapons would not solve it. That kind of defeatist attitude does not belong in the Pentagon or anywhere else.

Lest anyone forget, the moratorium in my amendment does not cover antitank mines or command detonated claymore mines that are used to guard a perimeter. It would not take effect for 3 years ... the Pentagon wants an exception for mines that automatically self-deactivate. I wish that were the solution, but it is not. Those mines are just as indiscriminate.

There is no way to limit how many can be used. There is no way to get governments or rebel groups that have millions of the \$2 variety, which do not self-deactivate, to destroy them so they can replace them with more expensive, modern mines. The only way is to ban all indiscriminate, antipersonnel landmines (Cong Record, 1995d: S18856-18902).

In response to Senator Leahy's passionate oratory, Senator Strom Thurmond offered a "number of concerns ... with regard to the landmine provision" that had been expressed by himself, other Armed Services Committee members, the Department of Defense, the Chairman of the Joint Chiefs of Staff, and the Department of Justice and were representative of the limited-ban (and pro-US military) position within the US government towards the global landmine crisis. Senator Thurmond made it clear that these agencies objected to Senator Leahy's provision, "particularly to the implementation of a moratorium on the use of antipersonnel landmines by the U.S. Armed Forces for defensive purposes because of its detrimental impact on the ability of the military forces to protect themselves" and that they believed "provision would seriously infringe on the President's constitutional authority as Commander in Chief on how weapons are to be used in military operations (Cong Record, 1995d: S18856-18902).

Senator Leahy eventually deleted the *Landmine Use Moratorium* amendment from the FY96 Defense Authorization bill (HR 1530), which included the additional conference report "certification" requirement. But what appeared to be a political defeat turned out to be a prudent legislative tactic as he had astutely ensured his amendment was also included in the Foreign Operations Appropriations bill. As Senator Leahy explained, "the certification in this bill, which was never debated or approved by either body, sounded innocent enough. But its effect would



have been to prevent the moratorium from ever taking effect. It would have given the Pentagon a veto” (Cong Record, 1995d: S18856-18902). Although the Senate had agreed to the conference report back on 19 Dec, it only passed by a narrow margin.<sup>21</sup>

Congress presented the bill to the President three days later and within a week, President Clinton had vetoed the bill--as the majority of Democrats had predicted during the debates. Although Congress failed to overturn the President’s veto,<sup>22</sup> after recommended changes to the bill were accomplished, President Clinton signed the *National Defense Authorization Act for Fiscal Year 1996* into law on 10 Feb 1996. The Foreign Operations Appropriations bill was inserted into a continuing resolution (HR 2880), which included Senator Leahy’s previous amendment. When President Clinton signed the continuing resolution on 12 Feb 1996, the *Landmine Use Moratorium Act* became US law. While the moratorium on US landmine use had taken a long and difficult legislative journey, it was to pale in comparison to the future efforts of pro-military advocates to ensure the US remained as a “limited ban” participant in the global campaign to ban landmines.

### **The Review Conference Resumes Negotiations**

The second session of the 1<sup>st</sup> Review Conference of the Convention on Conventional Weapons (CCW) was called to order at 10:50 am on Monday, 15 Jan 1996 at the *Palais des Nations* in Geneva, Switzerland. The resumed negotiations lasted five days and included the work of the 9<sup>th</sup> and 10<sup>th</sup> meetings of the second session committees. While the initial euphoria and historical significance of the Review Conference’s first session had passed, the expectations

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<sup>21</sup> Senate Roll Call no. 608 taken at 2:34 pm on 19 Dec 1995 - 51 yeas (47 Republicans and 4 Democrats), 43 nays (41 Democrats and 2 Republicans) and 6 non-voting; the 4 Democrats who voted “yea” were Senators Heflin (AL), Hollings (SC), Robb (VA), and Lieberman (CT); the 2 Republicans who voted “nay” were Senators Cain (AZ) and Hatfield (OR).

<sup>22</sup> House Roll Call no. 3 taken at 3:45 pm on 3 Jan 1996 – 240 yeas and 156 nays.

of the second session had not decreased and in fact, the international pressure on the participants to achieve substantial agreements during the negotiations had not diminished, as former UN Secretary-General Boutros Boutros-Ghali noted in a statement released prior to the second session. In his statement, Boutros-Ghali stressed that States, as well as, the international community “should not underestimate the difficulties and obstacles that must be overcome before the world is rid of this scourge.” Notwithstanding this obstacle, he acknowledged that the participants had their “differences in perception as to the legitimacy” of anti-personnel landmines and their function in defense planning and offered that States had “benefited from the new insights and understandings gained through the technical discussions held during [the] last meeting in Vienna” (Boutros-Ghali, 1996).

The organizational structure and Rules of Procedure for the second session remained practically unchanged from that of the first session, although the number of participants had slightly changed. The US delegation was again led by Ambassador Michael J. Matheson and included several interagency experts; although the number of individuals on the team had decreased. Forty-three States Parties to the CCW attended the second session as full participants.<sup>23</sup> In addition to the 33 States not parties to the CCW who participated in the second session as observers,<sup>24</sup> representatives from the United Nations’ Children’s Fund, Department of Humanitarian Affairs, High Commissioner for Refugees, and Institute for Disarmament

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<sup>23</sup> These included Australia, Germany, Norway, Austria, Greece, Pakistan, Belgium, Hungary, Poland, Bulgaria, India, Russian Federation, Canada, Ireland, Slovakia, China, Israel, Slovenia, Croatia, Italy, Spain, Cuba, Japan, Sweden, Cyprus, Latvia, Switzerland, Czech Republic, Liechtenstein, Tunisia, Denmark, Malta, Ukraine, Ecuador, Mexico, United Kingdom of Great Britain and Northern Ireland, Finland, Mongolia, France, Netherlands, United States of America, New Zealand, and Uruguay

<sup>24</sup> These included Afghanistan, Honduras, Portugal, Algeria, Indonesia, Republic of Korea, Angola, Iran (Islamic Republic of), Romania, Argentina, Singapore, Armenia, Jordan, South Africa, Bolivia, Libyan Arab Jamahiriya, Syrian Arab Republic, Brazil, Luxembourg, Thailand, Burundi, Morocco, Turkey, Chile, Nicaragua, Union of Myanmar, Colombia, Nigeria, Vietnam, Egypt, Peru, Holy See, and the Philippines

Research; the League of Arab States; the International Committee of the Red Cross; the International Federation of Red Cross and Red Crescent Societies; and the Sovereign Order of Malta participated in the session as observers. Finally, in accordance with Rule 49 of the Rules of Procedure, representatives of 25 NGOs, which included Human Rights Watch Arms Project; Norwegian People's Aid; and the Vietnam Veterans of America Foundation, attended public meetings of the second session.

In his opening statement, the Review Conference President, Ambassador Johan Molander acknowledged that the previous session of the Conference had “received some bad press” but that it was “somewhat unjust and the gloom surrounding the meeting was unwarranted.” Although the first session of the Conference was impeded by certain “military-technical issues,” given the complexity of the “subject-matter” and the limited time-frame of the Conference session and the committee meetings, President Molander praised the “substantial progress” that had been made on several issues; for example, he noted that “even if the ‘President's’ [rolling draft] text was not a consensual document, it none the less reflected agreement on the issue of scope, on strengthening general restrictions on the use of mines, on establishing the strict responsibility of mine-laying parties and on developing rules on the transfer of mines” In reference to the difficult work ahead on the technical issues, President Molander stated that, nonetheless, the Conference had previously succeeded in agreement “on the necessity to outlaw non-detectable anti-personnel mines, and that “in principle, the Conference had also agreed that mines, especially anti-personnel mines that lay outside fences, [and] were un-patrolled or remotely delivered, should be fitted with self-destructing and self-deactivating mechanisms.” President Molander concluded his comments by stating that the Review Conference was “head[ed] in the right direction,” although it “still had a number of technical matters to solve.”

But he cautioned that even if the issues were cleared up in the course of the week, “some diplomacy would still be needed to conclude the rest of the negotiations” (UNGA, 1996a: 2).

The main objective of the second session had been to assemble military and technical experts together to workout and agree on the specific, substantive provisions necessary to provide improvements to Protocol II. In his closing comments, President Molander praised the participants for the “valuable” work that had been accomplished over the past week, specifically in reference to the “new texts” for the revision of Protocol II and its Technical Annex. He also provided a modicum of encouragement for the final session of negotiations when he stated that the Conference had developed a “congenial atmosphere in which delegations had done their utmost to understand one another and harness their efforts.” President Molander was acutely optimistic when he suggested that States maintain the “impetus” and take advantage of the break in negotiations to “review their positions and continue consultations on the various issues pending, while endeavoring to satisfy each other’s concerns” (UNGA, 1996b: 6). He believed that “if they managed to do so, a successful conclusion, however modest, could be counted on” at the final session to begin in April. As in the first session, the statements that were presented by various participants during the *General Exchange of Views* clearly reflected the temperament of the participants’ views of the objectives of the second session of the Review Conference, as well as, their individual positions relevant to the ongoing negotiations to reach agreements on how best to solve the landmine crisis (Appendix F). The second resumed session of the Review Conference concluded on Friday, 19 Jan 1996 when the 10<sup>th</sup> meeting rose at 4:45 pm.

### **The Military Utility of Landmines Revisited**

In Feb1996, in accordance with the Goldwater-Nichols Defense Department Reorganization Act of 1986, section 603, the White House released, “A National Security

Strategy of Engagement and Enlargement,” which details current US national security strategy central goals and objectives. The White House document also established three categories of basic US national security “interests” in which the US would consider the use of US forces to protect: *vital*, *important*, and *primarily humanitarian*.<sup>25</sup> The most successful international effort towards the global landmine crisis up to this point in the campaign was the US Humanitarian Demining program, which fell under the third category, “*primarily humanitarian*” interests. One of the three “central goals”<sup>26</sup> of the US National Security Strategy stated in the document was to “enhance [US] security with military forces that are ready to fight and with effective representation abroad” (White House, 1996). In support of this goal, the Administration offered a “comprehensive set of initiatives to address the global landmine crisis” which included, “strengthening the CCW provisions governing landmine use; placing international controls on exports, production and stockpiles, and developing new equipment for more effective demining” (White House, 1996). While the US government had not made a unilateral decision to totally ban antipersonnel landmines, efforts up to this point were clearly in support of established US national security interests.

### **International Committee of the Red Cross “Friend or Foe?” Study**

Noting the “absence of other *publicly* [emphasis added] available studies on the actual use and effectiveness” of anti-personnel landmines, the International Committee of the Red

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<sup>25</sup> “Vital” interests were of “broad, overriding importance to the survival, security and vitality” of the US national entity -- the defense of US territory, citizens, allies and our economic well-being...the US would do whatever it took “to defend these interests, including--when necessary--the unilateral and decisive use of military power”; “Important” interests that were at stake did not affect US “national survival, but they [did] affect importantly [US] national well-being and the character of the world in which [US citizens] live...military forces would only be used if they advanced “US interests, they [were] likely to be able to accomplish their objectives, the costs and risks of their employment are commensurate with the interests at stake and other means [had] been tried and [had] failed to achieve [US] objectives”; “Primarily humanitarian” interests would be protected based on the use of the “unique capabilities” of US military forces “rather than on the combat power of military force” (White House 1996).

Cross (ICRC) released the results of a study entitled, *Anti-Personnel Landmines - Friend Or Foe : A Study Of The Military Use And Effectiveness Of Anti-Personnel Mines*, on 1 Mar 1996. Led by British Brigadier Patrick Blagden,<sup>27</sup> the ICRC-commissioned study examined the “military case for continued use of [anti-personnel landmines] in light of their employment in actual conflicts since 1940, whether by professional armed forces, by insurgents or in counter-insurgency operations” (ICRC, 1996). According to its research review of publicly available records, the study found that contrary to the conventional wisdom of landmine use advocates, the historical record of selected battles since 1940 that were known to use landmines provided no “analytical evidence of the military utility of [anti-personnel] mines in actual battle” (ICRC, 1996). By Aug 1997, the ICRC study had been unanimously endorsed by over 55 active and retired senior commanders “in their personal capacity” from 19 countries.<sup>28</sup> The ICRC-sponsored study offered that the available evidence suggested that the use of anti-personnel landmines does not substantiate claims that anti-personnel mines are indispensable weapons of high military value, although their value for indiscriminate harassment when used by irregular forces can be high and their use for population control had regrettably been all too effective.

In regard to traditionally emplaced mines, the study concluded that establishing, monitoring and maintaining an extensive border minefield was time-consuming, expensive, and dangerous and in order to have any efficacy at all, landmines would need to be under continuous observation and direct fire, which was not always possible; given these practical difficulties, some armed forces had entirely refrained from using such minefields and under battlefield

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<sup>26</sup> The other two central goals were: “to bolster America’s economic revitalization” and “to promote democracy abroad.”

<sup>27</sup> In addition to a career in combat engineering/weapons research with the British Army, Brig Blagden had recent experience with the landmines problem in more than a dozen countries as Senior Demining Adviser to the UN's Department of Peacekeeping Operations.

conditions the use, marking, and mapping of mines in accordance with classical military doctrine and international humanitarian law was extremely difficult, even for professional armed forces. In fact, according to the study, history showed that effective marking and mapping of mines had rarely occurred (ICRC, 1996).

Other significant findings of the study, all of which, consequently, supported the "total ban" position, included: evidence that the cost to forces using anti-personnel landmines in terms of casualties, limitation of tactical flexibility and loss of sympathy of the indigenous population was higher than had been generally acknowledged; the military use in accordance with traditional doctrine appeared to have occurred infrequently and only when specific conditions were met;<sup>29</sup> although the military value of anti-tank mines was acknowledged, the value of anti-personnel landmines mines was questionable in relation to protecting anti-tank mines--there were few historical examples to substantiate the effectiveness of such use; and the effect of anti-personnel landmines against unprotected infantry is limited and infantry have in the past advanced through minefields, accepting the risk and casualties this entails;

Limited-ban advocates, such as the United States, supported the use of self-destructing/self-deactivating landmines, purporting that they were not the cause of the current global landmine crisis. One argument against this position, often held by total-ban advocates, was that the delivery system of such landmines was problematic. In support of the ICBL position, the ICRC study concluded that remotely delivered self-destructing/self-deactivating

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<sup>28</sup> The US endorser was retired Lt. General Robert G. Gard, Jr., President, Monterey Institute of International Studies.

<sup>29</sup> These conditions included: both parties to the conflict were disciplined professional armies with a high sense of responsibility and engaged in a short-lived international conflict; the tactical situations were fairly static; mines were not a major component of the conflict; forces possessed adequate time and resources to mark, monitor and maintain minefields in accordance with law and doctrine; mined areas were of sufficient economic or military value to ensure that mine clearance occurred; the parties had sufficient resources to ensure clearance and it was carried out without delay; and the political will existed to strictly limit the use of mines and to clear them as indicated above.

landmines were not solely defensive weapons and in practice, would likely be used in huge quantities to saturate target areas and would almost certainly cause vastly increased civilian casualties. In addition, the study concluded that even if such mines were designed to be self-destructing/self-deactivating: they would be dangerous during their intended active life; the marking and mapping of such landmines would be virtually impossible; in extended conflicts they may be re-laid many times; that they may be unreliable; inactive mines, like unexploded ordnance, could still be dangerous; and the mere presence of mined areas would produce fear, keeping civilians out of areas important for their livelihood.<sup>30</sup> In summary, the ICRC-sponsored study on the military utility of anti-personnel landmines concluded that their "limited military utility ... [was] far outweighed by the appalling humanitarian consequences of their use in actual conflicts" and "on this basis their prohibition and elimination should be pursued as a matter of utmost urgency by governments and the entire international community" (ICRC, 1996).

### **US Military Landmine Policy Review**

On 17 Mar 1996, the *New York Times* published an article which announced that General John Shalikashvili, the Chairman of the Joint Chiefs of Staff, had ordered a review of the Department of Defense's longstanding resistance to banning the use of landmines (Bonner, 1996). Although the article asserted that General Shalikashvili had been pressed to review the US military position due to the Senator Leahy-led, bi-partisan successes in Congress, in fact, it was an earnest push from the US Ambassador to the UN, Madeleine K. Albright, that prompted the Chairman to initiate the review (Bonner, 1996; Sigal, 2006).

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<sup>30</sup> Other conclusions offered by the ICRC-sponsored study included: additional alternatives should be pursued rather than further development of any new AP mine technologies; developments which further increase the lethality of anti-personnel landmines are to be deplored and are unnecessary; improved mine clearance technologies for military, humanitarian and civilian agencies should be vigorously developed with a goal of making anti-personnel landmines progressively less useful (ICRC 1 Mar 1996).



On 13 Feb 1996, after returning from a trip to Angola, where she saw first hand the realities of the landmine crisis, Ambassador Albright sent a letter to General Shalikhshvili, as well as, to the National Security Advisor, Anthony Lake, and the Secretary of Defense, William Perry (Sigal, 2006; Leahy, 1996: S2213). In the letter, Albright advised that a decision was “urgently needed” on a new US landmine, or the current Administration’s goal of the “eventual elimination” of anti-personnel landmines would not be reached “in our lifetimes” (Sigal, 2006).<sup>31</sup> Senator Leahy expressed his enthusiasm of the pending military review to the US Senate. He highlighted that this would be a “tremendous opportunity for US leadership” and advocated, again, his position that “only way to stop the use of antipersonnel landmines is to stop the use of antipersonnel landmines” (Leahy, 1996).

### **Retired US Military Leaders Join Pro-Ban Position**

On 3 Apr 1996, 15 retired senior military officers, including Lieutenant General James F. Hollingsworth, former commander of US Forces in Korea; General David Jones, former Chairman of the Joint Chiefs of Staff; and General H. Norman Schwartzkopf, former Commander of OPERATION DESERT STORM, exhibited a public show of support for the pro-ban movement when they published "An Open Letter to President Clinton" (Appendix G) urging their former Commander-in-Chief to ban anti-personnel mines.<sup>32</sup> The retired generals stated that a ban would be “humane and militarily responsible” (NY Times, 1996).

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<sup>31</sup> For a more in-depth discussion of the reactions to the letter and the efforts of the Chairman of the JCS and Clinton Administration to pursue the military review and develop a “new landmine policy,” see Sigal, 2006: 125-138. The Clinton Administration eventually announced a “new” US policy on 16 May 1996.

<sup>32</sup> The other 12 military retirees included: General John R. Galvin (US Army, ret.), former Supreme Allied Commander, Europe; General William G.T. Tuttle, Jr. (US Army, ret.), former Commander, US Army Materiel Command; General Volney F. Warner (US Army, ret.), former Commanding General, US Readiness Command; General Frederick F. Woerner, Jr. (US Army, ret.), former Commander-in-Chief, US Southern Command; Lieutenant General James Abrahamson (USAF, ret.), former Director, Strategic Defense Initiative Office; Lieutenant General Henry E. Emerson (US Army, ret.), former Commander, XVIII Airborne Corps; Lieutenant General Robert G. Gard, Jr. (US Army, ret.), former President, National Defense University, President, Monterey

The "Open Letter" from the retired military leaders expressed notable commonalities with pro-ban advocates. For example, in confirmation of the humanitarian aspect of the ban campaign, the retired military leaders stated that a total ban on the "production, stockpiling, sale and use of landmines" was "not only humane, but also militarily responsible" and that "given the wide range of weaponry available to military forces today, antipersonnel landmines [were] not essential." In addition, especially for those critics who held the position that the use of antipersonnel landmines was a security issue, the former senior military leaders offered that "banning [antipersonnel landmines] would not undermine the military effectiveness or safety of our forces, nor those of other nations (NY Times, 1996).

Another noteworthy statement in the letter highlighted a furtive debate in the US military at the time. This debate concerned the efforts of pro-ban advocates to eliminate antipersonnel landmines from US military arsenals and the possibility that these efforts could be far-reaching and would attempt to ban other weapon systems. As a testimonial from retired military leaders, it is significant because they obviously felt it necessary to make a comment about this matter. The remark, which was more of a reply to their active duty military brethren, offered clarification that a total ban on antipersonnel landmines would not be "a slippery slope that would open the way to efforts to ban additional categories of weapons, since these mines are unique in their indiscriminate, harmful residual potential" (NY Times, 1996). Senator Leahy, in response to the "Open Letter" and the "slippery slope" debate, stated that:

Over the past several years, I have sponsored legislation against antipersonnel landmines. The purpose of my legislation has been to exert United States leadership so that pressure

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Institute of International Studies; Lieutenant General Harold G. Moore, Jr. (US Army, ret.), former Commanding General, 7th Infantry Division; Lieutenant General Dave R. Palmer (US Army, ret.), former Commandant, US Military Academy, West Point; Lieutenant General DeWitt C. Smith, Jr. (US Army, ret.), former Commandant, US Army War College; Vice Admiral Jack Shanahan (USN, ret.), former Commander, US Second Fleet; Brigadier General Douglas Kinnard (US Army, ret.), former Chief of Military History, US Army.

would build on other countries to follow our example. During a lot of that time this was seen as some kind of a crusade of civilians against the military. It was never the case. It was never intended by me to be the case. In fact, one of the greatest encouragements I had in my efforts to ban landmines was the support I received from combat veterans around this country (Leahy, 1996a: S3420).

Although this public statement clearly supported the total ban advocates' position that even military leaders believed landmines were non-viable weapons, it is more an indication of the culture of the US military towards public debates. While senior military leaders may have specific opinions concerning landmines, they were not likely to voice them to their superiors while they were on active duty, especially if these opinions were contrary to any official US position. The fact that pro-ban advocates continued to rely on "retired" military member's expertise and opinions did not necessarily help change or forward their position within the US military during the global campaign to ban landmines; there were plenty of former US military leaders more than willing to come forward and support the use of landmines by US forces (Isenberg, 1994; Trainor, 1996; Trainor, 1996a). As will be shown in subsequent chapters of this study, the security aspect of banning landmines became a critical factor in President Clinton's decision not to sign the Ottawa Convention in December 1997.

The negotiation efforts of the global campaign to ban landmines had triggered a tidal wave of international focus by the start of the final session of the Review Conference. While military operations took place in Southern Europe, many people around the world likely shared the same concerns of the States and numerous organizations that had gathered in Geneva to negotiate a solution to the landmine crisis. For instance, Senator Leahy expressed his concerns not only for the safety of US troops in Bosnia, but also for the negotiations about to take place in Geneva. In a statement to the US Senate, he noted:

Today, it is landmines that our troops fear the most in Bosnia. No army is going to challenge our men and women in Bosnia, but there are hidden killers everywhere. A \$2 antipersonnel mine will blow the leg off the best-trained, the best-equipped, the best-motivated American soldier ...

There is no reason why today, with the world's attention focused on Bosnia, where we are spending tens of millions of dollars just to try to find the mines, we cannot join with our NATO partners, who have gone way out ahead of the United States, and renounce these insidious weapons.

Let the United States--the most powerful nation on Earth--instead of being a follower in this, become the leader. A law we voted for in the Senate, now on the books, says we will halt our use of these landmines in 3 years. It should happen immediately, and it should be permanent, as Germany, Canada, and the others have done. Our senior retired combat officers support it. Hundreds of humanitarian organizations support it (Leahy, 1996a).

### **The Final Session Of The Review Conference**

The multilateral efforts to negotiate a solution to the global landmine crisis in the Review Conference had not been without its obstacles and setbacks. But for those who were familiar with how the majority of past negotiations took place within the United Nations, especially within the CD, the progress that had been made so far was to be commended. Ambassador Johan Molander of Sweden, the Review Conference President, declared the third, and final, session of the Review Conference of the CCW open at 10:45 am on Monday, 22 Apr 1996 in Geneva. By the start of the session, 51 States parties to the CCW were represented at the Conference as full participants<sup>33</sup> and 36 States not parties to the CCW attended as observers.<sup>34</sup>

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<sup>33</sup> These included Argentina, Germany, New Zealand, Australia, Greece, Norway, Austria, Guatemala, Pakistan, Belarus, Hungary, Poland, Belgium, India, Romania, Brazil, Ireland, Russian Federation, Bulgaria, Israel, Slovakia, Canada, Italy, Slovenia, China, Japan, South Africa, Croatia, Jordan, Spain, Cuba, Laos People's Democratic Republic, Sweden, Cyprus, Latvia, Switzerland, Czech Republic, Liechtenstein, Tunisia, Denmark, Malta, Ukraine, Ecuador, Mexico, United Kingdom of Great Britain and Northern Ireland, Finland, Mongolia, United States of America, France, Netherlands, and Uruguay

<sup>34</sup> Afghanistan, Holy See, Singapore, Algeria, Honduras, Syrian Arab Republic, Angola, Iceland, Thailand, Armenia, Indonesia, Turkey, Azerbaijan, Iran (Islamic Republic of), Union of Myanmar, Bolivia, Venezuela, Burundi, Luxembourg, Viet Nam, Cambodia, Morocco, Zambia, Chad, Mozambique, Zimbabwe, Chile, Nigeria, Colombia, Peru, Egypt, Philippines, El Salvador, Portugal, Ethiopia, and the Republic of Korea

Also in attendance as observers were representatives from various United Nations agencies;<sup>35</sup> the ICRC and International Federation of Red Cross and Red Crescent Societies; the Sovereign Order of Malta, and several regional organizations.<sup>36</sup> But unlike the two previous sessions, where attendance of the non-governmental organizations and their representatives was minimal, for the final negotiations of the 1<sup>st</sup> Review Conference, the number had increased dramatically, almost tripling from 25 NGOs in Jan 1996 to 70 by the start of the final session on 22 Apr 1996.

President Molander boldly announced that the Conference was at a “critical stage” and that the previous work on revisions to Protocol II and its Technical Annex would be finalized (UNGA, 1996c: 2). But as the final session began, it was apparent from the statements presented to the Conference by the States and organizations in attendance that agreement between participants on numerous issues within the negotiations was headed for an impasse. Some representative excerpts from the *General Exchange of Views* discussions and statements presented, as included in the *Summary Reports* of the 11<sup>th</sup> and 12<sup>th</sup> meetings that took place on Monday, 22 Apr 1996 and Tuesday, 30 Apr 1996, respectively, are included in Appendix H for review.

On Friday, 3 May 1996, during the 14<sup>th</sup> meeting of the Review Conference in Geneva, Switzerland, at approximately 4:40 pm, the 1<sup>st</sup> Review Conference of the States Parties to the CCW adopted, *by consensus*, the Amended Protocol II (*on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices*) to the 1980 *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* (Appendix I). A representative

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<sup>35</sup> These included: The United Nations Children’s Fund; the United Nations Department of Humanitarian Affairs; the United Nations High Commissioner for Refugees; and the United Nations Institute for Disarmament Research

selection of the participants' responses at the *Closing Statements* portion of the Review Conference on the evening of 3 May, as taken from the *Summary Record* of the 14<sup>th</sup> meeting, are included in Appendix J for review. In his final statement to the Conference, President Molander acknowledged the difficulty of the negotiations and recognized that they not only dealt with weapons concerns and legal procedures, but "at a more fundamental level, with human values." While he believed the Conference had made a significant improvement in the "old" Protocol II, he stated that:

Inevitably, many delegations felt that not enough had been achieved, but that was because the amended Protocol reflected the consensus of all States parties. A growing number of States parties favored an international ban, but the probable majority of States were of a different opinion; many States considered anti-personnel landmines to be an indispensable military asset (UNGA, 1996d: 6).

The responses to, and analysis of, the results of the 1<sup>st</sup> Review Conference of the CCW negotiations came quickly and was as predictable as it was fast. For example, by 1:12 pm EST on the same day that the Review Conference closed, Department of State spokesman, Nick Burns, fielded questions during an afternoon press briefing in Washington, DC concerning the negotiations that had taken place in Geneva, Switzerland. The excerpt below, taken from the press briefing, indicate the level of awareness, as well as, preparedness, that both sides to the discussion had, so soon after the Conference had concluded:

**Question** - Nick, a couple of landmine (inaudible). What was -- you regard this as an improvement on the previous protocol.

**Mr. Burns** - Yes.

**Question** - But is it as much of an improvement as the United States was pressing for? Was the U.S. in favor of a total ban -- an immediate ban or not?

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<sup>36</sup> These included: The League of Arab States, the Organization of African Unity, and the Organization of the Islamic Conference.

**Mr. Burns** - David, I think that our sense of the negotiations has been that very few countries, unfortunately, would favor that kind of immediate total ban. *The reality of the negotiations is that we have been swimming upstream against a number of countries that aren't interested at all in banning landmines* [emphasis added]

So I can't say that we were effective in resolving all of the questions to our satisfaction. That rarely happens in a negotiation. But I can say that because of our influence and the work of some of our friends, we've significantly strengthened it.

Let me just give you a couple of examples of that, and this will be available to you in writing after the briefing. We think the revised protocol extends the scope of the existing protocol to include internal armed conflicts as well as peacetime; where that is relevant.

The revised protocol requires all anti-personnel mines to be detectable, using commonly available technology; therefore, all that would be produced during the intervening period. It requires all anti-personnel mines to be kept within marked and protected minefields or to be equipped with self-destruct and self-deactivation features.

I mean, the problem here is that, as you know, in some places in the world -- for instance, in the Egyptian desert west of Alexandria -- there are landmines left from the El Alamein campaign that continue to kill Egyptian Bedouin in the western desert, and that's fully 50 -- more than 50 years after the Battle of El Alamein.

If now we can have all new landmines with self-deactivation devices; that is a significant improvement for future generations that have to live with this curse. I could go on, but it prohibits the transfers of prohibited mines, such as non-detectable anti-personnel mines. It prohibits the transfers of all mines to non-state entities; therefore, to guerrilla groups. It provides for regular meetings of all the countries to consider how we can further improvements to the protocol and work, of course, towards the end of these landmines on the face of the earth.

So we think we've been able to negotiate some substantial changes that strengthen the convention here, and we would, of course, support these changes as a final decision of the review conference.

**Questions** - Just for the record, was the U.S. in favor of a total and immediate ban?

**Mr. Burns** - *I don't believe we ever took that position in the conference, simply because we've had to negotiate pragmatically in this conference* [emphasis added]. We're not interested in standing on soap boxes and making speeches. We've been more interested in strengthening the protocol, and our sense ... of these negotiations was that there was simply, unfortunately, very little support for that among the countries that have the capability to produce these landmines and use them (Burns, 1996).

As a result of the negotiations, 55 States parties at the Convention also adopted a *Final Declaration* which contained 21 items that the High Contracting Parties of the CCW “solemnly declared” to support in the interests of the global landmine crisis. Several of the items, submitted below, clearly reflect the Conference’s particular direction and focus for future landmine negotiations. In the Declaration, the States parties “solemnly declared”:

Their commitment to respect the objectives and provisions of the Convention and its annexed Protocols as an authoritative international instrument governing the use of certain conventional weapons, which may be deemed to be excessively injurious or to have indiscriminate effects

Their conviction that States should strive towards the goal of the eventual elimination of anti-personnel land-mines, consistent with the terms of the United Nations General Assembly Resolution 50/70 (O)

Their satisfaction at the adoption of an amended Protocol II on mines, booby-traps and other devices

That the prohibitions and restrictions on the use and transfer of anti-personnel mines in Protocol II shall facilitate and advance the achievement of the ultimate goal of the eventual elimination of anti-personnel mines, consistent with the terms of the United Nations General Assembly Resolution 50/70 (O)

The importance they attach to the earliest possible entry into force of the amended Protocol, and their desire that all States, pending its entry into force, respect and ensure respect for the substantive provisions of the amended Protocol to the fullest extent possible

Their commitment to keep the provisions of Protocol II under review in order to ensure that the concerns regarding the weapons it covers are addressed

Their commitment to ban all remotely delivered mines without effective self-deactivation features and either self-destruction or self-neutralization mechanisms and their recognition of the need to strive for a ban on all remotely delivered anti-personnel mines as viable alternatives are developed that significantly reduce the risk to the civilian population

Their recognition of the importance for the purposes of facilitating and accelerating mine-clearance of the application of the prohibition of the use of non-detectable anti-personnel mines



Their commitment to assist, to the extent feasible, impartial humanitarian demining missions, operating with the consent of the host State and/or the relevant States parties to the conflict, in particular by providing all necessary information in their possession covering the location of all known minefields, mined areas, mines, booby-traps and other devices in the area in which the mission is performing its functions

That they will encourage efforts of the United Nations and other organizations to address all the problems of land-mines

Their commitment to follow up the review process begun at the First Review Conference and, for that purpose, establish a regular review mechanism for the Convention and its annexed Protocols (UNGA, 1996e: 34-36).

The US negotiation efforts during the 1<sup>st</sup> Review Conference of the CCW were “important and successful in a number of respects: (1) they resulted in significant restrictions on [anti-personnel landmines] use and transfer by the States that would not accept a total prohibition; (2) they provided a technical basis and political impetus for [the upcoming] Ottawa [Process]; (3) they provide[d] a structure for sensible restrictions on weapons other than [anti-personnel landmines]—in particular, anti-vehicle mines; and (4) they provided political cover and legitimacy for the US position, particularly in providing a forum in which the US took the lead in pushing humanitarian restrictions” (Matheson, 2005). As Ambassador Matheson, head of the US delegation to the CCW, reflected on the negotiations:

I can’t speak to the sincerity of the NGOs, [but] in [the] CCW, there was a remarkable consistency between US military interests and humanitarian concerns, partly because the US military had already adopted, for military reasons, limitations on mine design and doctrine that happened to make very good sense from a humanitarian point of view. We were able to package the basic US design and doctrinal considerations in a way that allowed us to take the leading role in pressing other mine states to accept similar restrictions. In that sense, the US positions in CCW were both “sincere” and protective of US interests. *This is true of all good diplomacy* [emphasis added] (Matheson, 2005).

### **US Announces “New” Landmine Policy**

In a dynamic display of unilateral determination, as well as, a show of solidarity within the relevant US government agencies towards the “eventual elimination” of antipersonnel

landmines, US President Clinton announced on 16 May 1996, in Room 450 of the Old Executive Office Building, alongside Secretary of State, Warren Christopher; Secretary of Defense, William Perry; US Ambassador to the United Nations, Madeleine Albright, and Vice Chairman of the Joint Chiefs of Staff, General Joseph Ralson, USAF, that the US would seek to negotiate an international agreement to ban antipersonnel mines with a view to completing the negotiation “as soon as possible.”<sup>37</sup> The majority of President Clinton’s statement is presented below while the subsequent press briefing is included in Appendix K.<sup>38</sup>

**President Clinton** - ... Today I am launching an international effort to ban anti-personnel landmines. For decades, the world has been struck with horror at the devastations that land mines cause. Boys and girls at play, farmers tending their fields, ordinary travelers -- in all, more than 25,000 people a year are maimed or killed by mines left behind when wars ended. We must act so that the children of the world can walk without fear on the earth beneath them.

To end this carnage, the United States will seek a worldwide agreement *as soon as possible* [emphasis added] to end the use of all anti-personnel land mines. The United States will lead a global effort to eliminate these terrible weapons and to stop the enormous loss of human life. The steps I announced today build on the work we have done to clear mines in 14 nations, from Bosnia to Afghanistan, from Cambodia to Namibia. They build as well on the export moratorium on land mines we have observed for four years -- an effort that, thankfully, 32 other nations have joined. To pursue our goal of a worldwide ban, today I order several unilateral actions.

First, I am directing that effective immediately, our armed forces discontinue the use of all so-called "dumb" anti-personnel mines, those which remain active until detonated or cleared. The only exception will be for those mines required to defend our American troops and our allies from aggression on the Korean Peninsula and those needed for training purposes. The rest of these mines, more than 4 million in all, will be removed from our arsenals and destroyed by 1999.

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<sup>37</sup> In fact, the *New York Times* preempted the Administration’s announcement five days prior in an article that reported the meeting between the JCS and President Clinton concerning the military’s new “watered down” proposal for US landmine use (Shenon 1996); For more detailed accounts of events prior to President Clinton’s announcement, read Wareham 1998, pgs 224-225 and Sigal 2006, pgs 138-142.

<sup>38</sup> President Clinton began his comments at 4:27 pm; the following press briefing began at 4:35 pm; deleted from the transcripts are comments and condolences for the recent death of US Navy Admiral Boorda. The press briefing concluded at 5:07 pm EDT.

Just as the world has a responsibility to see to it that a child in Cambodia can walk to school in safety, as commander in chief, my responsibility is also to safeguard the safety, the lives of our men and women in uniform. Because of the continued and unique threat of aggression in the Korean Peninsula, I have therefore decided that in any negotiations on a ban, the United States will and must protect our rights to use the mines there. We will do so until the threat is ended or until alternatives to land mines become available.

Until an international ban takes effect, the United States will reserve the right to use so-called "smart mines," or self-destructing mines, as necessary, because there may be battlefield situations in which these will save lives of our soldiers.

Let me emphasize: These smart mines *are not the hidden killers that have caused so much suffering around the world* [emphasis added]. They meet standards set by international agreement. They destroy themselves within days, and they pose virtually no threat to civilian life once a battle is over. But under the comprehensive international ban we seek, use of even these smart anti-personnel mines would also be ended.

We're determined that lands around the world will never again be sown with terror. That is why I will propose a resolution at the 51st United Nations General Assembly this fall urging the nations of the world to support a worldwide ban on land mines. I have instructed Ambassador Albright to begin work now on this resolution.

Third, while the exceptions I have mentioned are necessary to protect American lives, I am determined to end our reliance on these weapons completely. Therefore, I am directing the secretary of defense to begin work immediately on research and development of alternative technologies that will not pose new dangers to civilians.

Fourth, as we move forward to prevent the mine fields of the future, we must also strengthen the efforts to clear those that still exist today. At this moment, unbelievably, some 100 million mines still lie just beneath the earth in Europe, in Asia, in Africa and in Central America.

To help end the anguish they cause, the Department of Defense will expand its efforts to develop better mine detection and mine-clearing technology for use in the many countries that are still plagued by mines. We will also strengthen our programs for training and assisting other nations as they strive to rid their territory of these devices. For these efforts, as well as those to develop alternatives to anti-personnel mines, we will assure sufficient funding. I will personally work with Congress on this issue.

Many have worked to bring us to this moment. I especially want to say a word of thanks to Sen. Patrick Leahy of Vermont. Although I know he has differences with our approach, his dedication and his moral leadership on this issue have played a vital role in alerting the conscience of our nation to the suffering that land mines cause. I also want to thank the many nongovernmental organizations that have worked so hard to put this issue at the top of the international agenda.

As we turn to the task of achieving a worldwide ban, we must work together, and we will be successful. Let me say, again, I greatly appreciate the time and the energy that Gen. [John] Shalikashvili [chairman of the Joint Chiefs of Staff] and the Joint Chiefs have devoted to this important issue over the last few months. It may take years before all the peoples of the world feel safe as they tread upon the earth, but we are speeding the arrival of that day with the decisions announced today. I will do everything I can to implement them all -- *including the international agreement to ban all anti-personnel mines -- as quickly as possible* [emphasis added] (Clinton et al., 1996).

According to the "Fact Sheet" released by the White House in conjunction with President Clinton's announcement, the new US landmine policy specifically focused on seven initiatives:

(1) pursuit of an *international ban* on the "use, stockpiling, production, and transfer of anti-personnel landmines with a view to completing the negotiation as soon as possible; (2) a *Korean exception* that viewed the security situation on the Korean Peninsula as a unique case in which the US would protect their right to use anti-personnel landmines there until alternatives became available or the risk of aggression had been removed; (3) an *immediate, unilateral ban on non-self-destructing anti-personnel landmines* and place them in inactive stockpile status with the intent to demilitarize by the end of 1999, all non-self-destructing anti-personnel landmines not needed to (a) train personnel engaged in demining and countermining operations, or (b) defend the US and its allies from armed aggression across the Korean Demilitarized Zone; in lieu of an international ban, the *reserved option to use self-destructing/self-deactivating APL*, subject to the restrictions the US had accepted in the Convention on Conventional Weapons--in military hostilities to safeguard American lives and hasten the end of fighting; beginning in 1999, the Chairman of the Joint Chiefs of Staff would submit an *annual report* to the President and the Secretary of Defense outlining his assessment of whether there remains a military requirement for the exceptions noted above; under the direction of the President, the Secretary of Defense would undertake *a program of research, procurement, and other measures needed to eliminate*

*the requirement for these exceptions* and to permit both the US and its allies to end reliance on anti-personnel landmines as soon as possible; a Department of Defense *program to develop improved mine detection and clearing technology* and to share this improved technology with the broader international community. The Department of Defense would significantly expand its humanitarian demining program to train and assist other countries in developing effective demining programs (Clinton et al., 1996).

In conjunction with President Clinton's announcement, General Shalikashvili, Chairman of the Joint Chiefs of Staff, issued the following statement in direct response to the “new” US anti-personnel landmine policy:

I strongly endorse the US policy to pursue an international agreement that would effectively ban the use, stockpiling, production and transfer of anti-personnel landmines (APLs). I along with all responsible citizens *abhor the reckless and illegal use of anti-personnel landmines* [emphasis added]. Such practices have caused countless civilian casualties and incalculable human suffering.

At the same time, *my first obligation must be to the safety and security of our men and women in uniform* [emphasis added]. It is they who must, day-in and day-out, go in harm's way and perform those missions our Nation asks of them. For years, the US military has responsibly employed anti-personnel landmines in accordance with the laws of land warfare. In recent years, this became even more important as US force levels declined and our military restructured.

With these issues in mind, I asked the Joint Staff to undertake a review of our use of APLs, taking into account my responsibility for protecting US forces, as well as the compelling humanitarian dimensions of this issue. In addition, I sought the views of the Joint Chiefs, our unified Commanders in Chief, as well as other experts.

The Chiefs and I concluded that with very limited exceptions, we could immediately terminate the US military's use of non-self-destructing APLs and work toward the ultimate goal of ending our reliance on all anti-personnel landmines.

The Joint Chiefs and I firmly believe that *we have charted a prudent and responsible course that will lead to the elimination of all APLs* [emphasis added], while continuing to protect American lives. We are convinced it is the right thing to do and there is no doubt the US military must be a leader in this global humanitarian effort (Shalikashvili, 1996).

The following month, Secretary of Defense Perry directed implementation of the President Clinton's new policy on anti-personnel landmines. The "new" Department of Defense landmine policy underscored the shift in the US military thinking towards a more humanitarian framework of the landmine issue.

### **Pro-Ban Advocates Reaction**

Within a hour after the 10 May 1996 meeting between the President and the Chairman of the Joint Chiefs of Staff to discuss and review the Pentagon's new landmine policy proposals, key members of the ICBL were informed of the findings. Their reaction was one of anger and outrage (Wareham, 1998; Sigal, 2006). Both the US-arm of the ICBL and the Vietnam Veteran's of America Foundation issued official statements that declared that the "new" US landmine policy would "run a dagger through the heart of the international campaign to ban" landmines (USCBL, 1996; Muller, 1996; Wareham, 1998).

On the same day as the Administration's announcement, Senator Leahy (D-VT) released his official statement in direct response to the "new" US landmine policy. But unlike the collaborative efforts and comments received from the President's Cabinet members and Administration, the Senator was not as so supportive, as the following statement clearly reveals:

Over the past several months, the Pentagon reviewed its landmine policy. I welcomed that review, knowing U.S. leadership is urgently needed to build support for an international ban on anti-personnel mines. I was very encouraged by reports that the Chairman of the Joint Chiefs of Staff, General Shalikashvili, was "inclined to eliminate all anti-personnel mines," and that Secretary of Defense Perry wants them banned.

But actions speak louder than words. Today the President is announcing the administration's "new" policy on anti-personnel landmines, but there is nothing new about it. It simply reaffirms the Pentagon's old policy: they support a ban, but not now, not anytime soon-- who knows when.

The world anticipated strong U.S leadership to solve this humanitarian calamity. Instead, this decision will slow down the international effort to ban anti-personnel landmines.

Worse yet, it would actually reverse U.S. law and allow greater use of landmines. In fact, the Pentagon is pushing legislation in the House to waive the Leahy moratorium.

Under this proposal, the U.S. will continue to use "dumb" anti-personnel mines, which remain active for years, in Korea, which is where the Pentagon said two years ago it wanted to use them. They will continue to use so-called "smart" anti-personnel mines, which are designed to self destruct but aren't smart enough to distinguish between a soldier and a child. Again, that was the administration's old policy.

The Administration says it wants to negotiate an international ban. I have always supported that--they said the same thing two years ago. But it will be far, far more difficult to accomplish that if the United States continues to insist that it needs these weapons even when so many others, including many of our NATO partners, have unilaterally renounced them. This policy gives a green light to the continued use of antipersonnel mines for years to come.

This policy is an attempt by the Pentagon to keep using an indiscriminate, exceptionally cruel weapon that does not belong in the arsenal of civilized nations. Worst of all, it is an affront to the hundreds of thousands of people around the world whose lives and limbs will be shattered by these landmines in the future.

Fifteen of this country's most distinguished military officers, including former commanders of our forces in Korea, NATO, Vietnam, and the Persian Gulf, have urged the President to ban these weapons. They said it would be "humane and militarily responsible," and "would not undermine the effectiveness or safety of our forces." So why wait? If anti-personnel mines were claiming the lives and limbs of thousands of innocent Americans, they would have been banned ages ago. That is the reality in dozens of countries today.

*This is a failure of U.S. leadership, but will not stop the international effort to ban these weapons* [emphasis added]. The Leahy amendment that passed the Senate by two-thirds last year with the support of Majority Leader Bob Dole and Minority Leader Tom Daschle is the law. It imposes a moratorium on U.S. use of anti-personnel mines in 1999. It would have to be waived for the administration's policy to take effect. This policy would take us backwards. Does the administration really want to reverse a moratorium the President signed into law just a few weeks ago?

My amendment has the support of the American Red Cross [and other] humanitarian and veterans groups around the country. A moratorium is as necessary today as it was a year ago. It is the only hope for strong U.S. leadership to build support around the world to end the use of these inhumane weapons (Leahy, 1996b).

## US Military Reaction

In his role as Commander-in-Chief, the President declared that the US would continue to use non-self-destruct mines to counter aggression in Korea, and self-destruct mines anywhere, until such an agreement is reached. The “new US landmine policy” announced on 16 May 1996 established "a concrete path to a global ban" on anti-personnel landmines (APL) but acknowledged that the US would pursue this ban while maintaining and protecting "essential US military requirements and commitments to our allies" (Clinton et al., 1996). On 17 Jun 1996, the US Secretary of Defense, William Perry, issued a memorandum directing the Department of Defense to "fully implement" President Clinton's new policy on antipersonnel landmines, discussed previously in this chapter. In the memo, Secretary Perry stated that “the new policy on anti-personnel landmines strikes an important balance between military and humanitarian imperatives” (Perry, 1996).

In his memorandum, Secretary Perry directed the US Department of Defense (DoD) to ensure its policies and programs were "fully consistent" with their Commander-in-Chief's new policy on anti-personnel landmines. He directed several additional efforts, to include, the "research and procurement of alternatives" for anti-personnel landmines and the expansion of both DoD humanitarian demining research and development and humanitarian demining efforts. Along with initiating steps to remove of all non-self-destructing (NSD) landmines from "unit basic ammunition loads," plans were to be developed to eventually remove all NSD landmines from "pre-positioned stocks."<sup>39</sup> Secretary Perry also tasked the Chairman of the Joint Chiefs of Staff (CJCS) to develop operational doctrine, tactics and plans, with specific instructions to the service to: direct modification of war plans to account for no use of non-self destructing anti-



personnel landmines, except for the [Commander, United Nations Command] in Korea; direct changes in war plans, joint doctrine and training to reduce and eliminate the reliance on anti-personnel landmines, consistent with the President Clinton's new policy; and direct the Services to begin development of tactics and Service doctrine eliminating the need to rely on self-destructing anti-personnel landmines in anticipation of prompt international agreement to ban all anti-personnel landmines.

Secretary Perry concluded his memorandum by stating that the new US policy on anti-personnel landmine presented by President Clinton struck "an important balance between military and humanitarian imperatives," asking each Service to ensure "your component of the Department of Defense fully implements it" (Perry, 1996). By Sept 1996, the US had unilaterally begun removing its anti-personnel and anti-tank mines from the perimeter of the U.S. Naval Base in Guantanamo, Cuba.<sup>40</sup>

### **The Conference On Disarmament**

The United Nations Conference on Disarmament (CD) was formed in 1979 as "the single multilateral disarmament negotiating forum of the international community" (UNOG, 2008; UNGA, 1997). The major arms control negotiations that were deliberated within the CD during 1996 were related to nuclear weapons disarmament and non-proliferation issues or other related topics, such as nuclear fissile material non-proliferation and chemical weapons. In fact, at the time of the Review Conference, the CD's agenda items included discussions on the establishment of "nuclear-free" zones; a nuclear test ban treaty; prevention of an outer space

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<sup>39</sup> Although the Korean exception still applied in both of these directives.

<sup>40</sup> Clearance of the United States' last permanent minefield was completed in 1999. Quality assurance and verification was completed in May 2000. It should be noted that all the landmines in the Korean DMZ are under the ownership of the Government of South Korea

arms race; and increasing membership within the organization itself (UNGA, 1997).

Traditionally, the CD limited the agenda items for negotiations on conventional weapons.

Another aspect of the CD that generated debate amongst participants in the landmine ban campaign was its “rule of consensus.” *Consensus* refers to the decision-making process in negotiations where all the stakeholders agree they can “live with a proposed solution, even though it may not be their most preferred solution” (Gray, 1989: 25). As Griffin describes the CCW, “conference decision-making is governed by the rule of consensus and the conservative positions of a number of key landmine stockpile-holders, notably China and Russia, meant that debate and outcomes were tilted towards the less ambitious end of the spectrum” (Griffin, 1996). Although negotiations by consensus take longer than typical decision-making processes such as majority-voting, the decisions that result have a more complete buy-in from *all* the participants. For treaties and agreements adopted in this manner, it is common to have numerous “reservations and exceptions” attached to them. With that said, in addition to the time constraints caused in adopting resolutions by *consensus*, the lack of conventional weapons negotiations was also a key reason why the ICBL had doubts about the success of any negotiations in the CD concerning anti-personnel landmines. This was an understandable concern; since the major States party to the CD believed that either the landmine crisis was a low priority compared to the issues of nuclear disarmament or did not belong on the agenda at all.

It was well acknowledged that the 1980 *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) contained limitations as an arms control treaty that had arguably helped perpetuate the global landmine crisis. The “omissions and loopholes” that many States, as well as, the majority of pro-ban advocates argued against existed in the CCW because

it: did not apply to internal armed conflicts, where most mine employment took place; was unable to assign clear responsibility for landmine removal; did not prohibit the use of “non-detectable” mines; contain weak provisions for remotely-delivered, as well as, hand-emplaced landmines; did not contain any control mechanisms for landmine exports or transfers; and it lacked any implementation and monitoring mechanisms (ICRC, 1996: 9).

Notwithstanding the noted constraints, US negotiators considered Geneva as the location of preference when it came to the CCW negotiations. Ambassador Michael Matheson explained the advantages of negotiations in Geneva:

There were many advantages to conducting the CCW negotiations in Geneva. All states had diplomatic missions there and many had ambassadors or other personnel with extensive experience in arms control, some with important influence in their capitals; this made it easier to conduct negotiations and consultations over a period of years. In particular, the US had a capable staff, including legal experts in Geneva that we used to good advantage, particularly in between negotiating sessions (Matheson, 2005).

He further acknowledged that typical United Nations arms control negotiations included a time-constraint disadvantage in achieving swift decisions:

On the other hand, it can be difficult to push negotiations in Geneva to a conclusion, since there is less pressure on Geneva-based diplomats to wrap matters up; this was a constant problem in many Geneva-based arms control negotiations. On balance, I preferred Geneva for [the] CCW [negotiations] (Matheson, 2005).

Another concern of the ICBL and pro-ban advocates about the landmine negotiations within the United Nations’ forum was the lack of States party to the 1980 treaty. By Dec 1995, only 57 States adhered to the treaty (ICRC, 1996). But the United States maintained at the time that the CD was the most appropriate international forum for the current landmine negotiations because its membership included States who were considered large producers of anti-personnel landmines, in particular, China, Russia, Pakistan, and India (White House, 1996; Cheek, 2005;

Davis, 2005).<sup>41</sup> As Ambassador Matheson explains, despite the noted disadvantage of consensus-based negotiations:

... the first round of CCW negotiations reached an impasse due to the unwillingness of Russia, China and India to go as far as we thought necessary. Rather than pushing through the US position by majority vote, or simply accepting the least common denominator, we moved to recess the negotiations, worked for months in bilateral channels to bring the others around, and finally resumed the conference with very good results. Forceful action has its place, but so do patience and compromise ... in the long term; better results are usually obtained by patient compromise than by time-driven imposition of terms. An agreement is not successful if it does not attract the adherence of the parties it is aimed at (Matheson, 2005)

### Summary

This chapter discussed the international initiatives towards solving the landmine crisis, as well as, the US and pro-ban advocates negotiation efforts that led up to the conclusion of the 1<sup>st</sup> Review Conference of the 1980 *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). Also offered in the discussion were the events that led to the announcement of the US's "new" landmine policy in May 1996 and the response to this event from pro-ban advocates and the US military.

In general, the results of the Review Conference were considered by most participants as an improvement over the original version of the CCW and were the best that could be achieved in the UN forum, given the time-constraints and procedural limitations of the Conference. For the pro-ban advocates, the Review Conference did not go far enough in achieving the total "elimination" of landmines. In fact, as will be discussed in the next chapter, *The Ottawa Process*, these results were instrumental in the decision of pro-ban States, such as Canada, and

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<sup>41</sup> For an informative description of the details of how the decision was made concerning the proper venue for US landmine negotiations when President Clinton announced the "new" US landmine policy, see Sigal 2006: 147-151.

the ICBL to seek other approaches, outside the traditional UN system, to reach the goals and agreements they had hoped for in the Review Conference. Overall, important initiatives were being pursued by the international community towards solutions to the global landmine crisis. Unfortunately for the campaign negotiations as a whole, the sum of all the “unilateral” efforts, however sincere, were not able to reach the “universal” agreements that both the US and pro-ban advocates had thought. The announcement of President Clinton’s “new” landmine policy and the reactions to it are evident of this impasse.

Within the discussion of these events were overlapping negotiation stages for the various participants in the global campaign to ban landmines. To clarify, this study considers all US negotiation efforts from the first sessions of the Review Conference of the CCW until final US participation in the *Diplomatic Conference on an International Total Ban on Anti-personnel Landmines* (commonly referred to as the *Oslo Conference*) in Oslo, Norway on 1-18 Sep 1997, as part of their "negotiation stage." Important in this consideration is the inclusion of the US’s non-participation during the majority of the Ottawa Process negotiations, which will be fully discussed in the next chapter.

The International Campaign to Ban Landmines’ (ICBL) campaign efforts discussed in this chapter are considered part of their *pre-negotiations* stage. In fact, all ICBL efforts discussed in this study, leading up to the conclusion of the *International Strategy Conference towards a Global Ban on Anti-personnel Mines* in Ottawa, Canada, (commonly referred to as the "Ottawa Conference") on 5 Oct 1996, are considered inclusive of the pro-ban advocates "pre-negotiations." With that said, for pro-ban States that held a “total ban” position, their “pre-negotiation stage” is not as transparent because some of them also negotiated in the United Nations Conference on Disarmament during the 1<sup>st</sup> Review Conference of the CCW. In addition,

Canadian Foreign Affairs Minister Lloyd Axworthy's announcement, at the end of the Ottawa Conference, to seek an international ban agreement within a year, is generally considered the official start of the "Ottawa Process." Therefore, from Oct 1996 to the conclusion of the *Oslo Conference* the following year, the Ottawa Process negotiation efforts of the pro-ban advocates are considered as their "negotiation stage," which mentioned previously, will be fully explored in the next chapter, *The Ottawa Process*.

## CHAPTER 6 THE OTTAWA PROCESS

### Introduction

This chapter presents overlapping negotiation stages of the US and pro-ban campaign participants that occurred during the negotiation efforts of the global campaign to ban landmines from Sep 1996 through Sep 1997. The analysis of the overlapping negotiation stages, arranged chronologically, provides the opportunity for a parallel examination of the participants' negotiation strategies and tactics. In this chapter's analysis, the study maintains that the US "negotiations stage" continued through the final sessions of the *1<sup>st</sup> 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) in May 1996 and until final US participation in the *Diplomatic Conference on an International Total Ban on Anti-personnel Landmines*, in Oslo, Norway in Sep 1997.

The ICBL and pro-ban campaign efforts leading up to the conclusion of the *International Strategy Conference towards a Global Ban on Anti-personnel Mines* in Ottawa, Canada, on 5 Oct 1996, was still considered an element of their "pre-negotiations stage." For pro-ban States that supported the "total ban" position, the scope of events included in this "stage" is less obvious because some of these States were also participants in the negotiations that took place during the 1<sup>st</sup> Review Conference of the CCW. In fact, it is Canadian Foreign Minister Lloyd Axworthy's surprise announcement at the conclusion of the International Strategy Conference held in Canada that is widely considered the official start of the "Ottawa Process." Therefore, from Oct 1996 to the conclusion of the *Diplomatic Conference on an International Total Ban on*

*Anti-personnel Landmines*, in Oslo, Norway, a year later, the Ottawa Process negotiation efforts of the pro-ban advocates are considered as their "negotiation stage." The chapter concludes with a summary of the events.

### **Toward An International Strategy Conference**

The recently concluded Review Conference of the CCW had produced acknowledged improvements over the 1980 CCW treaty. For example, in the case of anti-personnel landmines, the Amended Mines Protocol II had been unanimously adopted. However, pro-ban advocates recognized that if their goal of total "elimination" was to be obtained sooner than "eventually," then key leaders within the campaign would need to continue the international momentum achieved thus far and search for options, outside the United Nations system, to pursue their negotiation efforts. Encouragement soon came for the "total" ban advocates in the form of a number of significant addresses and statements given by key international leaders and numerous States to the United Nation's 51<sup>st</sup> session of the General Assembly. But in fact, prior to these events, on 30 Aug 1996, support for a key issue associated with the global landmine crisis, mine clearance, arrived from an unusual ally—the UN Security Council.

During its review of an agenda item entitled, *Demining in the context of United Nations peace-keeping*, the Security Council members noted that "the widespread indiscriminate use of anti-personnel mines in areas of United Nations peace-keeping operations pose[d] serious impediments to such operations and to the safety of United Nations and other international personnel" (UNSC, 1996). Within this context, the President of the Security Council issued an official statement, excerpts of which are presented in Appendix L. While the Security Council did not offer an official position in reference to the negotiations concerning the banning of anti-personnel landmines, the Council's clear focus on and concern for the issue of mine clearance



was evident in the President's statement. This level of support for a specific issue, in this case, mine clearance, indicates that an international agreement or agreements concerning an important issue of the landmine debate could possibly be negotiated within the United Nations forum.

On Tuesday, 24 Sep 1996, shortly after the 6<sup>th</sup> plenary meeting of the 51<sup>st</sup> session of the UN General Assembly was called to order at 10:00 am, US President William Jefferson Clinton was escorted into the General Assembly Hall. In his remarks, President Clinton addressed numerous US arms control issues and security concerns, such as the Treaty on the Non-Proliferation of Nuclear Weapons; the Comprehensive Test-Ban Treaty; the Chemical Weapons Convention; the freezing of nuclear fissile material production; the biological weapons Convention; and fighting terrorism. Among these issues, the President also commented on the US goal to "end the carnage caused by anti-personnel landmines." After referring to his 16 May 1996 landmine policy announcement as a means to achieve this objective, he renewed his "appeal for the swift negotiation of a worldwide ban on the use, stockpiling, production, and transfer of anti-personnel landmines." President Clinton ended his comments concerning the landmine crisis by declaring that "our children deserve to walk the Earth in safety" (Clinton, 1996).

One of the reasons most States were compelled to negotiate the banning of landmines in the UN's Conference on Disarmament (CD) was the opinion that anti-personnel landmines fell under the scope of arms control. Thus, as a security issue for most States, it would traditionally, by default, fall under the auspices of the CD as the single, international arms control negotiations forum. But in preparatory comments for his speech to the UN General Assembly on 24 Sep 1996, Canadian Foreign Affairs Minister Lloyd Axworthy noted that the current landmine crisis was "not just a disarmament issue" and suggested that the problem of landmines struck at the

“very heart of development efforts” as a humanitarian issue (Axworthy, 1996). Minister Axworthy then announced that Canada would host an international strategy conference of “like-minded” States, international agencies, as well as, NGOs to “provide impetus and direction” towards an international total ban on anti-personnel landmines; it now appeared the ICBL had an official State ally within the UN system willing to offer some political clout to the campaign outside the normal arms control forums (Axworthy, 1996).

The “like-minded” States that Minister Axworthy referred to, such as Ireland and Belgium, believed that “conventional arms control, at both a global and regional level, ... [required their] attention” and that the current pro-ban efforts to solve the global landmine crisis happening in Europe were an “opportunity to overcome the mistrust and insecurity that [had] previously predominated in arms-control negotiations” (Axworthy, 1996). These States hoped that their movement—with the *objective of total and universal prohibition of anti-personnel mines*--would “create a climate of transparency and cooperation leading to arms reduction” and wanted this process to spread to other regions of the world (Axworthy, 1996). While this was indeed good news for pro-ban advocates outside of the United Nations forum, some campaigners within the ICBL were originally hesitant to join forces with Minister Axworthy. For example, as Jody Williams and Stephen Goose recall, “one campaigner remembers wondering if the move was really designed to ensure that momentum for a ban would be sidetracked by more government discussions leading nowhere” (1998: 34).

### **The Ottawa Process**

#### **Background**

Consequent to his announcement to host an international strategy conference of “like-minded” participants to provide “impetus and direction” to “international, regional, and national

action toward a global ban,” Canadian Foreign Minister Lloyd Axworthy met with several countries at the UN who were also interested in the advancement of the anti-personnel landmine campaign efforts (DFAITC, 1996a). The strategy conference planners had expected approximately 70 participants—States, international and non-governmental organizations,—would attend the strategy deliberations (DFAITC, 1996a; Lawson et al., 1998: 161). In fact, the origins of possible support for such a conference extended back to early 1996, during the CCW negotiations in Geneva, when several NGOs and States sympathetic to the pro-ban campaign met in the “back rooms” to “muse about” cooperative efforts to increase momentum toward an international ban (Lawson et al., 1998: 166; Dolan and Hunt, 1998: 402). The eight States that participated in these meetings—Switzerland, Norway, Mexico, Ireland, Denmark, Canada, Belgium, and Austria—had been closely associated with the global landmine crisis as frequent providers of United Nations peacekeeping forces, who dealt directly with the international impact of anti-personnel landmines (Dolan and Hunt, 1998; Sigal, 2006). These States would in time provide the basis for the “core group” of States that would lead the pro-ban advocates’ negotiation efforts during the “Ottawa Process” (Lawson et al., 1998).

### **The Ottawa Conference**

The Ottawa Conference, officially entitled, the *International Strategy Conference: Towards a Global Ban on Anti-personnel Landmines*, was held in collaboration with the Canadian NGO, Mines Action Canada (MAC). Although the strategy conference officially began on Thursday, 3 Oct 1996, at 9:00 am in the Main Hall of the Canadian Government Conference Centre, several events in the days prior were conducted to ramp up media attention. These events included the launch of the “Living with Landmines Simulation” at the Central Experimental Farm Agriculture Museum and a national “War Museum Exhibit” ribbon-cutting

ceremony. The more substantive proceedings included a media background briefing delivered by the Director General of Canada's International Security Bureau and Chairman of the Ottawa conference, Mr. Ralph Lysyshyn, as well as, a panel discussion entitled, *Exploitation or Explanation—Media Portrayals of the Landmine Crisis*, which included panelists from relevant NGOs and media organizations (DFAITC, 1996a).

When the Ottawa Conference officially opened on 3 Oct 1996, 50 States had been confirmed full participants and 23 as confirmed observers, in addition to, eight international and non-governmental organizations (NGOs) confirmed as observers, to include International Campaign to Ban Landmines (ICBL) and the International Committee of the Red Cross (GICHD, 2005a). In pre-registration packets, participants were provided a “FAQs” sheet which outlined the goals of the Ottawa Conference. Specifically, the Conference objectives were: “to maintain momentum on the AP [anti-personnel] mine issue and provide a focal point for continued action on the issue in the wake of the recently concluded Convention on Certain Conventional weapons (CCW) Review Conference; to develop and engage public interest in the AP mine issue; to contribute to the continued evolution of global norms supportive of a ban on AP mines and their *eventual elimination* [emphasis added]; endorsement of an Ottawa Declaration and Action Plan which will establish a set of commonly-agreed strategic objectives for banning AP mines and a series of concrete actions to be taken at the global, regional and national levels by governments and NGOs to achieve these objectives; development of an integrated approach to dealing with the AP challenge—i.e. engaging governments, international agencies and NGOs in a *common fight* [emphasis added] to eliminate AP mines and dealing with the AP mine issue in a way that *combines ban, clearance and victim assistance questions as an integrated package* [emphasis added]; and agreement on follow-up meetings, both globally and

regionally, as appropriate, focused to maintain momentum on issue[s] and seek ongoing actions supportive [on] a global ban on AP mines” (GICHD, 2005b).

As the “FAQs” sheet also indicated, the Ottawa Conference would be open to all “like-minded” countries that “subscribed to the goals” of the Conference and would also agree to “specific action” in achieving those goals. This “self-selection” process was used to determine who the “full participants” and who the “observers” would be to participate in the workings of the Conference; NGOs were also given two ways in which to participate. One method was to be selected by the ICBL and MAC, who had been invited by the Canadian government to choose teams of representatives. The other way was to request to be included in their respective State’s delegations (GICHD, 2005b). As the Ottawa Conference was considered a *working session*, States were asked to send “senior” level officials. While planners acknowledged it was not a “pledging” conference, the meetings were “designed to build political commitment” and "support practical action to eliminate AP mines." In fact, participants were informed that the Ottawa Conference organizers defined the landmine issue as having the following “interlinked elements” in which solutions could ultimately come: “work toward a global ban; enhanced efforts on mine clearance; and increased attention to victim assistance” (GICHD, 2005b). The expectations of the Ottawa Convention participants were to focus on particular issues of the landmine problem in a search for solutions; however the obligation that any solutions must be congruent with the goal of a global ban would eventually prove too contradictory for those States that had not yet established the landmine problem as a purely humanitarian issue.

As the official host of the Ottawa Conference, Canadian Foreign Affairs Minister Lloyd Axworthy made the opening statement to the Conference attendees. After welcoming the Conference participants, Minister Axworthy expressed his believe that the Conference

represented “the emergence of a new mode of international cooperation,<sup>42</sup> in which citizens, non-governmental groups, international agencies and national governments join together in a genuine partnership that makes things happen” (Axworthy, 1996a). Minister Axworthy implied in his opening remarks that his government was ready to pursue negotiations outside traditional international negotiating forums and that the “overwhelming support of the international community and the convergence [seen] in the aims and efforts of states, regional organizations, the United Nations, parliamentarians and NGOs around the world” would provide the multilateral stimulus to do so. In particular, he hoped that “... the international community [would] move with deliberate speed and a clear sense of purpose to these negotiations” and stated that his country was “not prepared to see process road-blocks thrown in the way of launching and quickly concluding a convention banning land mines (Axworthy, 1996a).

For the two hours following the opening addresses, the Conference held an open information exchange session which allowed States to report to the Conference any noteworthy initiatives in their respective national landmine policies, as well as, offer their official stance concerning the landmine crisis. One such statement is worthy of note—that of the Australian delegation. The delegation confirmed that the Australian Government had recently announced its support for an international “ban on the use, transfer, production, and stockpiling of anti-personnel landmines” and that their Government had “unilaterally suspended the operational use of [anti-personnel landmines] by the Australian Defence Force” (GICHD, 2005c). Although the unilateral suspension was for an “indefinite duration,” the fact that Australian security interests had trumped humanitarian concerns became quite evident when in addition, they affirmed that

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<sup>42</sup> For more in depth discussion, read Axworthy’s chapter “Towards a New Multilateralism.” In *To Walk Without Fear: The Global Movement to Ban Landmines*, ed. Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, 1998.

“only in [the] case of a substantial deterioration of [the] strategic circumstances in which Australia’s security was under threat and the denial of an [anti-personnel landmine] capability to the Australian Defence Force would result in additional Australian casualties and damage to vital infrastructure would the suspension be reviewed (GICHD, 2005c).

As will be discussed later in this chapter, the de-militarized zone (DMZ) on the Korean peninsula was a controversial point of debate concerning the legitimate use of anti-personnel landmines. The Head of the South Korean delegation affirmed to the Ottawa Conference attendees that “even though [South Korea attends] this Conference as observers, [its] delegation shares the concern of the international community over the serious anti-human consequences of landmines, particularly anti-personnel landmines” (GICHD, 2005d).” He went on to state that South Korea was “placed in a unique security situation under which the use of landmines is crucial for safeguarding peace and security” and that because of this, his country could not “fully subscribe to the total and unconditional ban of [anti-personnel landmines]” (GICHD, 2005d). It is apparent from their statement that South Korea fully endorsed the humanitarian stance of the pro-ban advocates, but they also believed their current security situation did not allow them the luxury of pursuing humanitarian efforts towards a total ban of antipersonnel landmines at least until this dilemma was rectified. Clearly not highlighted, or even acknowledged by, pro-ban advocates, especially the ICBL during the Ottawa Conference, was the legitimacy of the security situation between North and South Korea as sanctioned by the United Nations Armistice Agreement of 1953—which many pro-ban states at the Ottawa Conference endorsed, at least politically.

Interestingly, the Head of the Republic of Korea offered to the Ottawa Conference attendees that “paradoxically enough, Korea illustrates a situation in which [anti-personnel

landmines] can serve as the most effective means for achieving the humanitarian goals which the proposed Ottawa Declaration is aiming at—namely reduction of the casualty and suffering” and he hoped that the Conference would be “successful in working out a *more comprehensive and practical solution* [emphasis added] to the anti-personnel landmines crisis” (GICHD, 2005d).<sup>43</sup> In full support of South Korea’s position, Mr. Thomas McNamara, Assistant Secretary of State for Political-Military Affairs and head of the US delegation, stated on the opening day of the Conference that while a total ban was one of US President Clinton’s “top arms control priorities,” the Korean Peninsula presented a “unique” international situation and one where the US would indeed “protect [its] right to use APL[s] there until alternatives become available or the risk of [North Korean] aggression has been removed” (McNamara, 1996a). In fact, it was this particular security situation that would turn out to be a key component of the US’s negotiation terms and a factor in their decision not to sign the Ottawa Convention in Dec 1997.

Mr. McNamara also declared that he could not “overestimate how seriously the United States takes the goal of eliminating [anti-personnel landmines] entirely” and went on to clarify the US position for the Conference by enumerating US efforts towards the goal of banning landmines (APLs):

Beginning in 1999, the Chairman of the Joint Chiefs of Staff will submit an annual report to the President and the Secretary of Defense outlining his assessment of whether there remains a military requirement for the exceptions<sup>44</sup> I have [previously] noted ... [Also], the [anti-personnel landmines] resolution the United States is proposing in the UN General Assembly this year goes further than previous resolutions in that it focuses on a call for concluding negotiations as soon as possible on an agreement to ban [anti-personnel landmines], while the previous resolutions focused on export moratoria and the 'eventual elimination' of [anti-personnel landmines] (McNamara, 1996a).

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<sup>43</sup>The Republic of Korea’s full statement is presented in Appendix M.

<sup>44</sup> These were: the Korean exception and the use of mines in demining/countermining training and operations.



Evident in these remarks, the US government continued to view itself as a leader in the global campaign to ban landmines and hold that the United Nations was the appropriate forum for such negotiations. While the proper forum for negotiations is one key element of successful negotiations in reference to the possibility of any agreements being reached between negotiators, another such element is more subjective. As what happened after the US announced it would seek the “eventual elimination” of anti-personnel landmines, the terminology chosen--to conclude negotiations “as soon as possible”--would also be challenged by the ICBL and pro-ban advocates as proof that while the US claimed leadership in the international movement to ban landmines, its rhetoric was always ahead of its actual policy decisions and agreements. In fact, the ICBL and pro-ban advocate’s own interpretation of those four words, which were ultimately adopted in the final UN resolution, helped spur increased international incentive to seek the elimination of landmines much sooner than the US had actually thought was possible.

### **Closed Sessions and Opened Panels**

The Ottawa Conference included three days of congruent closed sessions and opened panels for discussions and consultations. The closed sessions, which were entitled, *Global Action I, II, and III*, were devoted to government consultations and were for government delegations and international agencies only. But in actuality, this stipulation did not become a set back for non-governmental representatives, because some States had included NGO representatives on their delegation teams and as such, the ICBL maintained access to these meetings (GICHD, 2005a; Sigal, 2006). The US delegation was led by Mr. Thomas McNamara and included officials from the Departments of State and Defense, as well as, the National Security Council and in particular, the US representative at the UN, Ambassador Karl Inderfurth (Wareham, 1998).

The numerous open panels held during the Ottawa Conference were especially substantive in nature and scope. Listed here is a representative sample of the scheduled panels offered to conference attendees, taken directly from the *Conference Agenda*:

- **Setting the Stage: Anti-Personnel Mines and the International Community.** Response of the international community to the global AP mine crisis
- **Strategy Session: NGO-Parliamentarian Agenda for Action.** Common action for a global ban
- **NGO/Academic Panel.** Highlighted academic research on the relations of the landmines question to broader issues of international law, development and security
- **An Integrated Approach to the AP Mine Challenge.** Exploration of the degree to which a global ban, enhanced mine clearance, and victim assistance could become mutually supportive objectives (GICHD, 2005e)

The open sessions included an extensive diversity of panelists and discussants, each representing key relevant substantive issues of the global landmine campaign, such as Mr. Stephen Goose of the ICBL; Mr. Ken Rutherford and Mr. Jerry White of the Landmine Survivors Network; Mr. Stephen Lewis of UNICEF; and Mr. Peter Herby of the Legal Division of the ICRC. Conference organizers, recognizing the opportunity with such a large, attentive, and readily available audience to further their pro-ban message took advantage and scheduled an optional “Mines Awareness and Fund-raising” concert on the first night of conference.

On Friday morning, Day 2 of the Ottawa Conference, Senator Patrick Leahy attended a panel entitled, *Towards a Global Ban on AP Mines*, which held discussions on international efforts to achieve a global ban. With Senator Leahy, also on the panel was the President of the International Committee of the Red Cross (ICRC), Mr. Cornelio Sommaruga and Ambassador Johan Molander, recently the President of the 1<sup>st</sup> Review Conference of the CCW. Senator Leahy began his remarks by praising his two panel colleagues--Ambassador Molander for

accepting the challenge of chairing the Review Conference of the CCW amid numerous obstacles and Mr. Sommaruga and the ICRC for the technical and legal expertise offered to him when he sought support in the US Congress for his previous export moratorium legislation concerning anti-personnel landmines (Leahy, 1996c).

In response to those who held the position that the cause of the global landmine crisis was not the landmines themselves, but the indiscriminate use of them, Senator Leahy stated that “for the past four years, [the campaign has] accomplished a great deal by educating the public, and their leaders, about the effects of landmines [by emphasizing their] inherently indiscriminate nature” and by “discredit[ing] the argument made by some members of the military that it is people who use landmines irresponsibly that are to blame, not the mines themselves; both are to blame” (Leahy, 1996c). With that said, Senator Leahy told the panelists to keep two things in mind: that while “the world [was] not ready for an international ban on anti-personnel mines ... an international ban [was] achievable and probably in less time than any of [them] would have thought” (Leahy, 1996c).

But unlike other total ban advocates, Senator Leahy may have had a more limited idea of what “total” meant. In his statement, Senator Leahy expressed his disappointment that President Clinton had not joined with other “allies” and renounced the use of anti-personnel landmines. Although these US allies had announced total ban policies, in fact, Senator Leahy supported a ban policy that he described could include “the possible exception of the Korea DMZ – a unique situation where we need to act in unison with our South Korean allies” (Leahy, 1996c). The Korean exception to a US landmine policy would eventually re-surface again during the Ottawa Process negotiations and Senator Leahy, at that time, would not be as supportive of the “need to act in unison” with US allies but instead would rally behind total ban advocates. While Senator

Leahy may have initially been supportive of a US “limited” ban position, he clearly sided with other pro-ban advocates who believed the UN system of negotiations was no place for seeking appropriate solutions to the landmine crisis.

In recognition of the importance of choosing the proper negotiating forum, Senator Leahy stated that “the composition of the forum, rules of procedure, and the nature of the agreement to be negotiated will affect the pace and success of our efforts in the future” (Leahy, 1996c). After discussing both pros and cons for the Conference on Disarmament and the CCW, to include the major powers member issue; recent successes, such as the nuclear test ban; and the problem of consensus blocking; he offered his support for a forum that “seize[d] the momentum we have to get an early agreement among like-minded states” which could “then try to bring the outsiders” into the negotiations towards a ban. Senator Leahy added that efforts to ban landmines would be a “matter of political will ... but with over 40 nations supporting an immediate ban, there is no excuse” not to end the “humanitarian urgency” of the landmine crisis (Leahy, 1996c).

Mr. Cornelio Sommaruga, President of the ICRC, presented to the panel a plan for a pragmatic strategy he believed would bring a total ban on anti-personnel landmines to fruition.

His proposed strategy included the following steps:

- (1) States participating in the Ottawa Conference should make a total ban part of their national legislation; they should further encourage other States to follow their example;
- (2) National and regional initiatives, such as that taken by the Organization of American States calling for the establishment of landmine-free zones in the Americas, are a step in the right direction. Other regional organizations have called on their members to consider this possibility, which would set in motion a strong movement towards a total ban;
- (3) A massive and long-term international effort is needed in mine clearance if future generations are to be spared paying the price of today’s landmine legacy. Clearance efforts should therefore be integrated into comprehensive national and regional measures to ensure that new mines are not laid and that the needs of affected populations are addressed;

(4) A military study published by the ICRC in 1996 indicated that the actual use and effectiveness of anti-personnel mines is limited, particularly given the damage they do to individual victims, their community, environment and economy as a whole in the countries concerned. Dialogue on this issue should be broadened and deepened with military officers and research institutes. Regional efforts in the same direction should be encouraged; [and]

(5) The ICRC is more than ever convinced that anti-personnel mines must be banned and completely eradicated, not only because States have a moral and humanitarian responsibility to protect their own populations and territories against the effects of the weapons, but also because anti-personnel mines are inherently indiscriminate and that their military utility is far outweighed by their human, economic and social costs (Maresca and Maslen, 2000: 479-80)

Mr. Sommaruga declared to the panel that “the Ottawa Conference must succeed--both in adopting a politically binding declaration and plan of action for the coming years.” He also offered his view that the Ottawa Conference was “the beginning of the end--the beginning of an ongoing process, in which like-minded States will meet regularly at the global or regional levels until an international prohibition” of anti-personnel landmines was reached (Maresca and Maslen, 2000: 480).

### **Significant Results of the Ottawa Conference**

As previously stated, one of the aims of the Ottawa Conference was to “establish a set of commonly-agreed strategic objectives for banning AP mines and a series of concrete actions to be taken at the global, regional and national levels by governments and NGOs to achieve these objectives” (GICHD, 2005b). The two significant documents adopted as a result of the Conference sessions which were chiefly aimed at achieving this particular goal were the “*Declaration of the Ottawa Conference*” and the Chairman’s “*Agenda for Action*.” The *Ottawa Declaration*, of which a final draft had been circulated prior to the Conference, was the result of

consultations between the states known as the “Ottawa Group”<sup>45</sup> and relevant international agencies and organizations, as well as, other states and NGOs represented at the Conference (Lawson et al., 1998).

According to the *Ottawa Declaration*, the Ottawa Group “agreed to enhance cooperation and coordination of efforts on the basis of the following concerns and goals with respect to anti-personnel mines”: [recognize] that the extreme humanitarian and socio-economic costs associated with the use of anti-personnel mines requires urgent action on the part of the international community to ban and eliminate this type of weapon; [maintain] a conviction that until such a ban is achieved, states must work to encourage universal adherence to the prohibitions or restrictions on anti-personnel mines as contained in the amended Protocol II of the Convention on Certain Conventional Weapons; [support] an affirmation of the need to convince mine affected states to halt all deployments of anti-personnel mines to ensure the effectiveness and efficiency of mine-clearance operations; [recognize] that the international community must provide significantly greater resources to mine-awareness programs, mine-clearance operations and victim assistance; [maintain] a commitment to work together to ensure: the earliest possible conclusion of a legally-binding international agreement to ban anti-personnel mines, progressive reductions in new deployments of anti-personnel mines with the urgent objective of halting all new deployments of anti-personnel mines, support for a U.N. General Assembly resolution calling upon member states, inter alia, to implement national moratoria, bans or other restrictions, particularly on the operational use and transfer of anti-personnel mines at the earliest possible date, regional and sub-regional activities in support of a

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<sup>45</sup> The “Ottawa Group” originated from the “core group” of states that had met with the ICRC/ICBL in early 1996--Austria, Belgium, Canada, Denmark, Ireland, Mexico, Norway, and Switzerland. By Feb 1997, this group had

global ban on anti-personnel mines, and a follow-on conference hosted by Belgium in June 1997 to review the progress of the international community in achieving a global ban on anti-personnel mines” (GICHD, 2005f). By the conclusion of the Ottawa Conference, 50 states, to include the United States, had publicly announcement their support of the Ottawa Declaration.

The Chairmen’s *Agenda for Action* was expected to capture the “dynamism” of the Ottawa Conference proceedings, as well as, acknowledge the impetus of the campaign towards a global ban and to specify “concrete activities to be undertaken by the international community” to not only build upon the Ottawa Declaration, but to prepare for the upcoming follow-up conferences which were to begin in Belgium in 1997 (GICHD, 2005g). The Chairman’s *Agenda* offered states specific global and regional actions in order to “build the necessary political will” required for more states to “adopt national bans or moratoria on the production, stockpiling, use and transfer” of anti-personnel landmines, with the eventual goal of “reducing the total number of new deployments” of these weapons.

Some of the specific global and regional initiatives put forward in the Chairman’s *Agenda* included: “building support for the passage of the US-proposed United Nations resolution promoting an global agreement to ban anti-personnel landmines; building increased public awareness of the social, economic and human costs of anti-personnel landmines as essential to develop and sustain the necessary political will for a global landmine ban; engaging military experts in the study of the military utility and the humanitarian costs of anti-personnel landmine use; adding the anti-personnel landmine issue to the agenda of appropriate United Nations fora; encouraging rapid entry into force and universal adherence to the prohibitions and

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expanded to also include: South Africa, the Philippines, Germany and the Netherlands; although Denmark is not considered in the later formation.

restrictions on anti-personnel landmines as included in the Amended Protocol II of the CCW; announcing follow-up conferences to the Ottawa Conference to be held in Belgium, Norway, Germany, and Switzerland; announcing the 4th ICBL Conference on Landmines, *Toward a Mine-Free (Southern) Africa*, to be convened on 25 Feb 1997 in Maputo, Mozambique; and suggesting increased funding for mine clearance and victim assistance for those regions and sub-regions which had taken concrete steps to create anti-personnel “mine-free zones” (GICHD, 2005g).

Another key element of the Chairman’s *Agenda* was its focus on the “inter-relationship of the global ban, mine clearance and victim assistance agendas.” This particular focus led to specific initiatives that were meant to “foster international technical cooperation and to make further progress to improve and share mine clearance technology, equipment and expertise, to improve mine awareness efforts and to enhance victim assistance programs” (GICHD, 2005g). Some of the ideas discussed and offered included: convening a meeting of technical experts on de-mining technology in early 1997; increased international cooperation in anti-personnel landmine stockpile destruction; efforts to develop standard procedures for mines awareness education; and, consideration of including humanitarian mine clearance efforts within future peace accords (GICHD, 2005g).

The Ottawa Conference deliberations had been described as an “exercise in unconventional diplomacy;” for example, contrary to traditional United Nations negotiations, ICBL “campaigners were actively involved in drafting the precise language of both the final declaration and the action plan” during the Conference (Lawson et al., 1998: 162; Williams and Goose, 1998: 35). As key leaders of the ICBL recalled, “the conference was also notable for the unprecedentedly high level of co-operation with and involvement by NGOs in both its planning



and execution ... the ICBL was given a seat at the table as a full participant in the conference, while those governments unwilling to declare themselves pro-ban sat in the back as observers (Williams and Goose, 1998: 35).

Because full participants had “self-selected” to participate based on their support of the initial draft pro-ban declaration, ICBL advocates had been especially diligent during the Conference in keeping government delegations in line, as one official was quoted to say, “once you let the rats in, they could scuttle the boat” (Tomlin, 1998: 196). But the unconventional nature of the Ottawa deliberations and with it, the inexperience of campaigners with traditional negotiation tactics, was not necessarily spared on government delegation members. One particular episode during the Ottawa Conference between the Head of the French delegation and Ms. Jody Williams, a key ICBL coordinator, highlights this dynamic. When France announced their government’s support for a ban on anti-personnel landmines, it included the exemption that they would only employ anti-personnel landmines in the extreme case of the protection of French military forces.<sup>46</sup> In a manner that she described as “in-your-face diplomacy,” Ms. Williams publicly condemned the French delegation:

Your policy is contradictory. You are saying that you want to ban landmines, except when you want to use them. I suppose this is better than a stick in the eye, but it is not what we are looking for here (Tomlin, 1998: 201).

While her reaction towards the French delegation was as equally supported as it was criticized, the exchange exemplified the character of negotiations that included NGO representatives, who were not held to traditional diplomatic negotiation standards. In fact, this event set the tone for

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<sup>46</sup> “Nous prenons maintenant la décision de renoncer à l'emploi. Il y a une seule dérogation à cette règle de non emploi; elle est extrêmement limitative: il s'agira du cas de nécessité absolue imposée par la sécurité de nos forces et, dans cette hypothèse, une autorisation expresse devra être donnée par le gouvernement” (MDAE, 1996).

the pro-ban campaign negotiations that were to become internationally known as the *Ottawa Process*.

### **“One Final Point” Launches the Ottawa Process**

In line with the “un-conventionalism” of the proceedings, during his closing statement to the Conference, Canada’s Minister of Foreign Affairs, Mr. Lloyd Axworthy, offered “one final point” to add to the Chairman’s *Agenda* which stunned the delegations present. As he declared to those in attendance:

That point comes in the form of both an invitation and a challenge. The challenge is to see a treaty signed no later than the end of 1997. In the coming days, I will be writing to your ministers and to others not represented here to seek their views on how we can move ahead together. I will tell them that if the will is there, and we believe it is, we are offering to host an AP mine ban treaty-signing conference in December 1997 as a sign of our commitment to the ban (Axworthy, 1996b; DFAITC, 1996b).

The reaction to Minister Axworthy’s statement was immediate. As described by key ICBL leaders, the “foot-soldiers of the campaign stood up and cheered while many diplomats literally hung their heads and wrung their hands ... even clearly pro-ban states were horrified” (Williams and Goose, 1998: 34-35). Mr. Axworthy boldly charged the governments assembled at the Conference, including his own, “to put our rhetoric into action” and then further extended his challenge towards the NGOs present. Acknowledging the “effective arguments” used by the ICBL to get governments to Ottawa in the first place, he also challenged the NGOs to “ensure that governments around the world [were] prepared to work with us [pro-ban advocates] to ensure that a treaty is developed and signed next year” (Axworthy, 1996b).

Minister Axworthy was well aware that international arms-control negotiators would be skeptical of such a bold diplomatic challenge. But contrary to such critics, he pointed out that:

... such a treaty need not be complex. It is at its core a simple matter. We cannot allow negotiations to fall into traditional habits and approaches. These are not strategic

offensive weapons. Anti-personnel mines are essentially defensive. That is why this is not a traditional arms-control negotiation. *It is a humanitarian issue* [emphasis added] (Axworthy, 1996b).

While the diplomatic progress made during the sessions of the Ottawa Conference was undoubtedly a testament to the achievements of the multilateral efforts of the participants in the global campaign to ban landmines, no one, save a select handful, knew that what had taken place in the closing minutes of the Ottawa Conference would be such a watershed event; not only for the campaign itself, but for the future of international negotiations as well. The following selected comments highlight the preponderance of the ICBL and NGO reactions at the time to Minister Axworthy's challenge:

- I think the NGOs were--most of the NGOs, not all of us--a few of us, already had the heads up, it was a shock and a motivator. It was really a gun at the start of a race going off. And people sort of looked at their watches in government, who move a lot slower and are less flexible than global NGOs, were really shocked and maybe some were diplomatically offended, without prior consultation, this was a surprise ... I think we were all just motivated and on fire because of it, that it was a challenge and we knew drafting a treaty isn't so hard, it's actually the process of the negotiation that's hard (White, 2005).
- [Axworthy's challenge] freaked out the diplomats horribly, because [Canadian diplomats] had not consulted with anyone; they hadn't consulted with the other leaders like Belgium, like Austria, The Netherlands. Normally, you chat with your colleagues and you discuss whether or not this is a good thing to do. Canadians knew that if they chatted with their colleagues they would have been shot down, and nothing would happen, so they just did it. And then, to further horrify the diplomatic community, they said, "Not only are we going to do this, we are going to do it in open, complete partnership with the International Campaign to Ban Landmines, and they are going to be inside the negotiations. They are going to hear you when you negotiate"--he didn't say this, but the implication was--"so you're not going to be able to stand outside the negotiating doors and pretend you're doing the right thing, go inside and shut the doors, and keep civil society out-the same civil society without which this never would have happened-and non-negotiate the ban." So we were in the room (Williams, 1998).

The US reaction to the Canadian Minister's challenge was as predictable as it was swift.

Not received with the same level of enthusiasm displayed by the ICBL contingent, Ambassador

Karl Inderfurth, Deputy Ambassador to the UN and a member of the US delegation, offered this response:

Clearly all of us attending this conference feel strongly about the subject, and this initiative put on the table by the Canadian Foreign Minister is one that we will look at ... We're not prepared to set a date, but we are prepared to start work immediately on an international agreement to ban land mines. If this can take place within that time frame and if our concerns can be met, we'll be very supportive (Kirkey, 2000).

The head of the US delegation, not convinced of any advantage of establishing negotiation deadlines to reach a ban on landmines, added that "fixing a date is not, in our opinion, the best way of going about it" (McNamara, 1996).

The Ottawa Process was the name given to the "fast track" pro-ban negotiations that were created in direct response to Minister Axworthy's international challenge to sign a treaty banning anti-personnel landmines by Dec 1997. As he described the process:

It is my belief that the value of the Ottawa Process will speak for itself: a flexible, open and effective process that delivers concrete and speedy results; a process that holds out real hope for banning these weapons within months, not years or decades; a process that responds to the humanitarian imperative for action (Axworthy, 1997).<sup>47</sup>

And while the pro-ban campaign had not yet gained full momentum in response to the enthusiastic results of the recent Ottawa Conference—in fact, the next follow-up conference, to be held in Austria, was still four months away--it was clear that the subject of landmines had found its position on the international scene, evident in the deliberations that took place within the United Nations only 10 days after the start of the Ottawa Process.

### **Landmines Return To The United Nations**

On 14 Oct 1996, shortly after 10:15 am, the Secretary General of the United Nations, His Excellency Mr. Boutros Boutros-Ghali, gave the commencement address of the Committee on

Disarmament and International Security's (First Committee) opening day of their substantive deliberations. While the Secretary General highlighted some of the identical international security issues as US President Clinton had just three weeks earlier, such as the Nuclear Non-Proliferation Treaty and the cut-off of fissile material production, when he broached the topic anti-personnel landmines, Mr. Boutros-Ghali was very clear to the General Assembly members in his comments of what position he supported in the landmine ban debate. In his remarks, the Secretary-General declared:

Anti-personnel landmines are still being planted faster than they are removed. For the men, women and children of war-ravaged countries, and for the safety and security of United Nations peace forces, *I shall continue strongly to press for a total ban on anti-personnel landmines* [emphasis added]. I am encouraged by the steps being taken, unilaterally or jointly, by many States to adopt national measures to ban or restrict these weapons, and *I support the efforts under way in this Committee to begin negotiations towards a total ban* [emphasis added] (Boutros-Ghali, 1996a).

Over the course of the following week, the First Committee held a general debate on all disarmament and international security agenda items, in which numerous delegations offered statements concerning the ongoing Ottawa Process and their initiatives related to the global landmine problem.

On 16 Oct 1996, Mr. John D. Holum, Director of the US Arms Control and Disarmament Agency, addressed the UN General Assembly during the general debate on disarmament and international security deliberations. In his remarks, Mr. Holum praised the Assembly's recent successes in a "time of unprecedented progress for international ... disarmament" and stressed the responsibilities to future generations of the Assembly's "quest for a safer world" (UNGA, 1996f). According to Mr. Holum, a vital issue for discussion by the United Nations Assembly,

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<sup>47</sup> The Ottawa Process negotiations would be pursued in direct contradiction to the slower, more diplomatic, arms control negotiations that had traditionally taken place in the United Nations and specifically in the Conference on Disarmament.

one that he thought most would find “bureaucratic,” but as he stated, would, in fact, “decide whether disarmament [would] advance and accelerate, or stall in its tracks” was the issue of which disarmament negotiations “institutions and structures” were “best suited” to advance the UN arms control agenda (UNGA, 1996f).

With this in mind, Mr. Holum urged all countries to adhere to the Amended Mines Protocol II and emphasized that their current task was to “negotiate as soon as possible a global ban on the use, production, stockpiling and transfer of anti-personnel landmines” (UNGA, 1996f). In recognition of the on-going Ottawa Process efforts, he added that while the US was contemplating several “possible paths to such a treaty”--he mentioned the Conference on Disarmament by name--there were in fact “other possible venues” and the US would continue to “consult on this issue” [emphasis added] (UNGA, 1996f). The following day, the First Committee’s 6<sup>th</sup> meeting was called to order at 3:00 pm to continue its debate on the disarmament and international security agenda items. Selected excerpts from the deliberations are presented in Appendix N and offer a “sense of the Committee” towards the Amended Mines Protocol II, as well as, the context in which future international negotiations concerning landmines would take place.

### **Development of the Ottawa Process**

The International Committee of the Red Cross (ICRC), in its remarks to the UN First Committee, strongly supported the current diplomatic efforts to seek solutions to the global landmine crisis and welcomed the Ottawa Process initiatives, stating that Minister Axworthy’s invitation to conclude an international agreement within a year was a “major breakthrough” in international negotiations. The ICRC also acknowledged that the momentum established by pro-ban States had “demonstrated that the end of the landmines crisis need not await a globally

negotiated consensus” which implied that a global solution could also be negotiated outside the United Nations (Maresca and Maslen, 2000: 490-91). So congruent to its position of unequivocal support for a total ban on anti-personnel landmines, the ICRC also offered for the General Assembly’s consideration several other issues in which it would support; specifically, any resolutions that called on States to “end the production, use and transfer of” antipersonnel landmines “by a certain date in the very near future” or that increased significantly a State’s current assistance for mine clearance and landmine victim care and rehabilitation (Maresca and Maslen, 2000: 491-92).

Despite the additional negotiable issues offered, the ICRC, as well as, the ICBL and core pro-ban States, steadfastly maintained their total ban position throughout the global campaign as the *only solution* to the anti-personnel landmines crisis. But the expansion of solutions to the crisis into other distinct negotiable issues beyond a total ban position was in fact a concern of the early founders of the Ottawa Process. Because they recognized that the Ottawa Process would be considered by many as a novel venture into multilateral arms control negotiations outside the UN system, the early Ottawa Process advocates, in particular the Canadian officials, were initially perplexed on how to combine “a fully integrated and comprehensive ban convention” that “would respond to the demands of the NGO/IO community” and States that still believed landmines were essential to their national security interests. While these planners believed that a total ban solution would be easier from a technical point of view, they were rightly concerned that those States “essential to the operational success of the ban” would not be willing, especially if forced, to make the “single difficult choice” between fully supporting the total elimination of landmines—which included banning their use, production, stockpiling, and transfer—or not (Lawson et al., 1998: 163). They duly recognized that “some states would only be willing to

move towards a total ban over a longer time frame” and that a decision to develop a ban convention with four separate protocols that would call for bans on the use, production, stockpiling, and transfer of landmines “had the potential to engage large states such as the US and Russia in the Ottawa Process—possibly bringing along a large number of smaller states on their diplomatic coat-tails” and thus likely to “provide a more inclusive framework for diplomatic action within the Ottawa Process” (Lawson et al., 1998: 163).

The early Ottawa Process founders realized that the dividing line of this debate centered on how specific participants viewed the landmine crisis—as either a security or humanitarian problem. This impasse was crucial in the negotiations because it was linked to the potential solutions the negotiators would be willing to consider. In the early days of the Ottawa Process, the five members of the UN Security Council—the US, Russia, China, Great Britain, and France—were judgmental of the process and believed that any solutions to the landmine crisis would be essentially ineffective if they did not address states’ security concerns. United States arms control officials recognize that the strength of having negotiations in the United Nations system is that they “allow States to interact and to bring State interests into the negotiations and in fact, they really are negotiations,” where as the Ottawa Process only offers a “take-it-or-leave-it” negotiation approach, making it “very nearly impossible for most States to argue legitimate interests” (Kidd, 2005). But the Ottawa Process founders recognized that trying to close the chasm “presented a new range of quite daunting diplomatic challenges” and considered that the pro-ban campaigners may not be strong enough to overcome this obstacle within the timeframe being considered (Lawson et al., 1998: 164).

Based on the past history of international disarmament negotiations, Canadian officials recognized that if the Ottawa Process coalition chose to engage the large landmine producing



states, their efforts “would most certainly add years” to the campaign negotiations which was not conducive to achieving the objective set forth by Foreign Minister Axworthy. Given the strong support towards the humanitarian aspects of the landmine crisis from the ICBL campaigners, the core group of pro-ban states, and recent studies in landmine military utility, the decision was made that the primary focus of the Ottawa Process coalition would be to “engage mine-affected states in a march towards a ban” (Gard, 1998; Lawson et al., 1998: 164-165). This approach, noted by Canadian officials, was “the most direct and effective way to address the humanitarian crisis caused by the widespread use of antipersonnel mines” and would also “significantly [enhance] the relative effectiveness of mine clearance and victim assistance efforts” (Lawson et al., 1998: 165).

However, the period immediately following the Ottawa Conference was a “difficult time [for the Ottawa Process advocates] because of fairly widespread hostility among governments” for what some states felt was Canadian “grandstanding” and it was seen by the ICBL and key pro-ban advocates as a moment when the international ban “movement could be stopped in its tracks” (Greenaway, 1997). As Jody Williams recalled, "of course we kept up the smoke and mirrors routine, that there was this momentum building ... we never talked publicly about how shaky it was in those first couple of months after Ottawa. We just kept saying it was growing and it did" (Greenaway, 1997). A frequently used metaphor during this period was that of a “train leaving the station” (Lawson et al., 1998; 169). As described by key Canadian officials, “those who were first on board would be welcome to help steer the train; those who hesitated for too long may be forced to take the train to a destination chosen by others” (Lawson et al., 1998: 169). Unfortunately, the pro-ban advocates appeared not too concerned that their particular choice of negotiation strategies and tactics may well have forced others not to get on the train at

all and to pursue other means of transportation towards solutions to the global landmine crisis. In other words, two trains had left the station, on parallel tracks, in search of solutions to the global crisis. One train traveled within the “Ottawa Process,” which included the ICBL and pro-ban advocates; the other traveled within the Conference on Disarmament (CD). For the time being, the US had not bought a *ticket to ride* on the Ottawa Process, but as will be discussed shortly, within a couple of months, the decision was made by the US President to travel on the CD train.

With the momentum established in the United Nations for some form of an international ban on landmines and with the support of 50 States behind the *Ottawa Declaration*, the United States, led by Ambassador Karl F. Inderfurth, and in consultation with several pro-ban States, such as Canada, began working intensely over the next few months on the language for a draft resolution to submit to the United Nations General Assembly (UNGA) that would seek such a ban on landmines. Despite an embryonic chasm growing in the United States between advocates of the Ottawa Process’ “total ban” position and those who supported more “limited ban” options towards solving the landmine problem, cooperative US executive-legislative relations persevered as Senator Leahy joined UN Ambassador Albright in introducing to the UNGA the US co-sponsored resolution that called for "vigorous" negotiations of an "international agreement to ban the use, stockpiling, production, and transfer of anti-personnel mines, with the view to completing the negotiation *as soon as possible*" [emphasis added]. As was the case when President Clinton announced the new US landmine policy, no specific time table was offered as to what “as soon as possible” meant or how fast “vigorous” should be. As such, the interpretation was left open, with the US moving to control its own schedule of initiatives and the Ottawa Process supporters with a declared mandate to sign a ban treaty within the next year.

Notwithstanding this ambiguity, the UN General Assembly passed Resolution 51/45S on 10 Dec 1996 with a unanimous vote of 156-0 and only 10 abstentions (Appendix O).<sup>48</sup>

On 7 Jan 1997, with the joint recommendation of the Department of Defense, Department of State, and the Arms Control and Disarmament Agency, US President Clinton referred to the Committee on Foreign Relations a “Letter of Transmittal” to the Senate urging early action on the amended Mines Protocol (Protocol II) 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). In the Letter, he stated:

... I am convinced that this amended Protocol will, if generally adhered to, save many lives and prevent many tragic injuries. It will, as well, help to *prepare the ground for the total prohibition* [emphasis added] of anti-personnel landmines to which the United States is committed. In this regard, I cannot overemphasize how seriously the United States takes the goal of eliminating APL entirely ... On May 16, 1996, *I launched an international effort to this end* [emphasis added]. This initiative sets out a concrete path to a global ban on anti-personnel landmines and *is one of my top arms control priorities* [emphasis added]. At the same time, the policy recognizes that the United States has international commitments and responsibilities that must be taken into account in any negotiations on a total ban (US Senate, 1997).

Despite the ongoing Ottawa Process efforts being led by Canada and the ICBL pro-ban advocates, President Clinton believed that “prompt ratification” of the amended Mines Protocol II was “particularly important, so that the United States [could] continue its position of leadership in the effort to deal with the humanitarian catastrophe of irresponsible landmine use (US Senate, 1997).<sup>49</sup>

President Clinton delivered his fifth “State of the Union” address before a joint session of Congress at 9:15 pm, EST, on 4 Feb 1997, one week prior to the opening of the Austrian-sponsored follow-up conference to the previous Ottawa Conference. This was the first “State of

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<sup>48</sup> The 10 abstainers were: Turkey, Russia, Syria, North and South Korea, Pakistan, Belarus, Israel, Cuba, and China

the Union” address since he took office in which he voiced the word "landmines" (Clinton, 1997a). Up until that time, the President's major arms control issues during these joint sessions had been mainly limited to nuclear proliferation and chemical weapons treaty ratification. In the context of providing national security and prosperity, President Clinton stated that the United States "must move strongly against new threats to our security" and so was “acting to rid the world of landmines" (Clinton, 1997a). But while the US continued to pursue initiatives towards banning landmines within the Conference on Disarmament, the ICBL and pro-ban supporters were not deterred that the US had not yet joined the Ottawa Process and pressed forward with their negotiations outside the United Nations system. For the pro-ban campaigners, the uncertainty of whether or not the US would initially board the Ottawa Process train was soon cleared.

On 17 Jan 1997, the Clinton White House announced that the US would not participate in the Ottawa Process, but would instead “seek to initiate negotiations on a worldwide treaty banning the use, production, stockpiling, and transfer of anti-personnel landmines” within the Conference on Disarmament (CD) which was to begin its 1997 session in Geneva the following week (White House, 1997). During the press conference, the White House press secretary, Mike McCurry, stated that US officials had engaged in “extensive consultations with many countries,” such as key allies Great Britain, Australia, and France, and decided that the 61 member CD offered “the most practical and effective forum for achieving [the US] aim of a [global] ban” (White House, 1997; Kozaryn, 1997). According to Robert Bell, National Security Council Senior Director for Defense Policy on Arms Control, the US believed it could “get a land mine

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(Dolan and Hunt, 1998: 421).

<sup>49</sup> “Prompt” US ratification of the CCW Amended Mines Protocol II came on 20 May 1999.

agreement out of the [CD], recognizing that it's going to be tough because some of the countries in the conference, like Russia and China, do not appear to be disposed to do this" (Kozaryn, 1997). After citing the successful Comprehensive Test Ban Treaty and the Chemical Weapons Convention negotiations that taken place in the CD, the White House officials revealed that the US looked forward to the opportunity "to make early progress on starting negotiations" within the CD towards banning landmines and welcomed "efforts outside that forum," in particular the "free-standing process initiated by Canada" that could assist in building "momentum to our common goal" (White House, 1997). The US decision to pursue its negotiations within the United Nations system was largely based on the premise that a truly "universal ban" was needed on anti-personnel landmines; one in which the negotiated agreement was not just "among like-minded states who wouldn't be exporting [landmines] anyway," but an agreement that captured "all nations that might be exporting or potentially might be tempted to use these so-called hidden killers" (Ross, 1997: 19).

On the same day the White House announced its non-participation in the Ottawa Process, the US Department of Defense (DOD) held a background briefing with reporters concerning US landmine policy. The senior military officials in attendance reviewed and discussed the DOD's progress since June 1996 towards Defense Secretary William Perry's initiatives to eliminate antipersonnel landmines and develop viable alternatives. Based on these initiatives, the senior officials discussed in detail the US military's seven point program which included the following seven directives: (1) provide support, along with the rest of the Administration, for pursuing a ban; (2) begin research and procurement of alternatives to anti-personnel landmines; (3) change war plans, doctrine and training to reduce and eliminate reliance on anti-personnel landmines; (4) develop tactics and doctrine eliminating the need for self-destructing anti-personnel landmines;

(5) remove all non self-destructing anti-personnel landmines from US stocks with the exception of those for Korea; (6) expand US humanitarian research and development programs; and (7) expand US operational humanitarian demining programs (DoD, 1997).

While the official military briefing fully covered the significant progress made to date in all of the areas of the Defense Department's landmine programs, the subsequent press conference (Appendix P) highlighted the dynamics of the often antagonistic relationship between US military officials and the media. Several issues arose that emphasized key items of debate between the US and pro-ban advocates. One such exchange highlighted the US effort to decrease its reliance on non-self-destructing landmines, the so-called "dumb mines," which US officials had in the past stated were the main culprits of the current global landmine crisis, while advocating the responsible use of self-destructing landmines, commonly referred to as "smart mines." Another item highlighted was that an exception for landmine use on the Korean Peninsula remained a key aspect of the US landmine policy. Finally, it was evident from the responses to questions that the US military was fully committed to both the search for alternatives to landmines, as well as, to its support of President Clinton's decision to pursue the elimination of landmines in the Conference on Disarmament.

Critical reaction from Ottawa Process supporters of the US non-participation decision was not surprising, since they had all but dismissed the US as the recognized leader in the campaign to rid the world of landmines, notwithstanding acknowledged successes of the US's humanitarian demining programs. In response to the White House announcement, US Senator Patrick Leahy (D-VT) issued an official statement, in which he commended President Clinton for his commitment and devoted efforts to end the "scourge of anti-personnel landmines," but

disagreed that the US decision not to participate in the Ottawa Process was the “best way to reach a total ban” (Leahy, 1997).

An avid pro-ban supporter, Senator Leahy believed that the Ottawa Process was “the best opportunity for rapid progress” towards a total ban because it established “a moral and tactical imperative for bringing holdout nations aboard” (Leahy, 1997). Although Senator Leahy stated that he would “continue to work with the Administration and with others to pursue [a total ban agreement] in the forum the President has chosen,” he was “skeptical” that the CD could reach a quick agreement on a ban because the forum required “step-by-step consensus that rewards holdout states, who effectively have a veto that retards or prevents strong agreements” (Leahy, 1997). While Senator Leahy clearly offered enough support to the US decision not to appear in total disagreement with his President, he added that “if it becomes clear that a mandate for a total ban cannot be achieved soon, [the US] should not belabor the obvious [and] at that point the Administration should become an active participant in the Ottawa Process, leading to the signing of an international agreement in December [1997]” (Leahy, 1997). He concluded his statement with the recommendation to the Clinton Administration that the meeting of the Ottawa states slated to convene during the summer “serve as a useful benchmark for gauging progress made within the CD” at that time (Leahy, 1997).

### **Landmine Negotiations in the Conference on Disarmament**

The 1997 session of Conference on Disarmament included three negotiation sessions from 20 Jan to 27 Mar, 12 May to 27 Jun, and 28 Jul to 10 Sep. In the course of the three sessions, the CD held a total 28 formal, plenary meetings in which the 61 member States,<sup>50</sup> as

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<sup>50</sup> These included Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Cuba, Democratic People’s Republic of Korea, Democratic Republic

well as, invited non-member States,<sup>51</sup> offered their official positions and proposals on the various questions being debated in the Conference. The Conference adopted the following eight agenda items for the 1997 session on 14 Feb during the 755<sup>th</sup> plenary meeting: (1) Cessation of the nuclear arms race and nuclear disarmament; (2) Prevention of nuclear war, including all related matters; (3) Prevention of an arms race in outer space; (4) Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; (5) New types of weapons of mass destruction and new systems of such weapons & radiological weapons; (6) Comprehensive program of disarmament; (7) Transparency in armaments; and (8) Consideration and adoption of the annual report and any other report, as appropriate, to the General Assembly of the United Nations (CD, 1997). While intensive consultations were conducted with regard to reaching consensus on the program of work for the CD members, unfortunately for any progress towards landmine ban negotiations, according to the CD's final report to the UN General Assembly, "it was not possible to establish any negotiating mechanism on any of the substantive items on the agenda, nor to establish any other mechanisms, apart from the appointment of the four Special Coordinators" (CD, 1997).

The first round of meetings in the Conference on Disarmament concluded as slow-going and uneventful negotiations, as many Ottawa Process supporters predicted, with no decisions being adopted. The second group of meetings began on 12 May and appeared to be headed for

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of Congo, Egypt, Ethiopia, Finland, France, Germany, Hungary, India, Indonesia, Islamic Republic of Iran, Iraq, Israel, Italy, Japan, Kenya, Mexico, Mongolia, Morocco, Myanmar, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Poland, Republic of Korea, Romania, Russian Federation, Senegal, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Vietnam and Zimbabwe.

<sup>51</sup> These included Armenia, Bolivia, Brunei Darussalam, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Gabon, Georgia, Ghana, Greece, Holy See, Iceland, Ireland, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malaysia, Malta, Mauritius, Nepal, Oman, Philippines, Portugal, Qatar, Saudi Arabia, Seychelles, Singapore, Slovenia, Sudan, Swaziland,



the same results as the previous negotiations. During a press conference in Geneva on 15 May 1997, Mr. John Holum, Director of the US Arms Control and Disarmament Agency (ACDA), offered his recommendations for resolving the current impasse being experienced in the CD negotiations:

I think the best way out is to begin action. Probably the only way out will be sufficient passage of time so the few delegations who are intent on holding up action hear from their colleagues that that is not the proper way to operate in a conference that depends on consensus for moving forward. (And) that every country is bound to be disappointed by some elements of the process, and by some parts of the treaties that are ultimately produced. But if we insist on linkages, then the conference itself is unviable.

Remember that the Conference on Disarmament is the instrument by which many of the countries represented here, including in particular the non-aligned countries, have access to and have a prominent part in genuine negotiations on binding international agreements. It would be a terrible loss to them as well as to the international community and to the United States, frankly, if this forum were to decline in influence and value.

So I think it requires some sober thinking of the sort I tried to inspire with my statement this morning. Am I hopeful about the prospects for immediate progress? I just can't say. I don't know what the impact will be. I have, in my consultations this week, found a number of countries who are increasingly frustrated at the delays and misdirection of effort, but how broad that is remains to be seen (Holum, 1997a).

Three days later, Mr. Holum addressed the Conference on Disarmament in his official capacity as Director of the US ACDA, in which he expressed the official US views on the issue of anti-personnel landmines. He first reminded the Conference that it was “the body where arms control negotiations, not merely discussions, are conducted ... where the world’s substantive expertise on arms control, not just its polemical vehemence, resides” and then he optimistically declared that “this is a year of decision for the Conference on Disarmament” (Holum, 1997b). After discussing the fissile cutoff issue, Mr. Holum offered the following statement, centered on the four main objections he viewed as interposed to an anti-personnel landmine negotiation:

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Thailand, The Former Yugoslav Republic of Macedonia, Tunisia, United Arab Emirates, United Republic of

There is another constituency with whom we must keep faith. They live far from the diplomatic corridors of Geneva or New York. But we must heed their pain.

In the hour or so we spend together here, a senseless and avoidable tragedy will likely strike three or four innocent human beings. Somewhere in this time, a farmer in Latin America, a child in Asia, a mother in Africa, will accidentally pull a trip wire or press a firing-pin that will detonate an anti-personnel landmine and end their lives -- or blight them forever.

Anti-personnel landmines, or APL, have catastrophic consequences for civilian populations. They are categorized as conventional weapons, in contrast to weapons of mass destruction that can wipe out whole cities at a time. But anti-personnel landmines are wiping out the equivalent of whole cities, a few people at a time. We have it in our power to help end this.

A year ago this week, President Clinton announced U.S. support for banning anti-personnel landmines. In our view the Conference on Disarmament should promptly agree to commence negotiations, and complete a global ban at the earliest possible time. Strikingly, no government represented here is on record opposed to starting such work. So why is this body only negotiating about negotiations -- when the world demands that we negotiate about mines?

Aside from the paralyzing obstacle of linkage to other causes -- which I will address later -- four main objections are interposed to an anti-personnel landmine negotiation.

First, an APL treaty is alleged to be a humanitarian measure unfit for this body, which negotiates arms control, nonproliferation and disarmament agreements. But is not such a distinction almost entirely artificial? Disarmament measures almost invariably have humanitarian effects. For example, the Chemical Weapons Convention was propelled in considerable part by the recognition that poison gas is an especially cruel weapon that operates indiscriminately, against civilians as well as soldiers.

Moreover, the humanitarian aspects of the landmine issues are being addressed in other ways. Many countries, including the United States, are contributing to the dangerous work of removing leftover mines around the world. And last year's amendments to the Convention on Conventional Weapons did much to address the humanitarian problem of civilian casualties resulting from newly-emplaced APL. What is needed now is a bold disarmament step.

The second objection is that an APL ban may not accommodate the legitimate security concerns of some states. But the CD is a body whose procedures ensure that every serious concern is seriously considered. If a concern is real and garners more than isolated support, it will likely find expression in the Conference's product.

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Tanzania, Uruguay and Zambia.

The third bar to negotiations relates to the mandate itself. Any mandate, if unduly specific, would contain something unacceptable to somebody. A draft mandate should remain flexible as to its particulars, so long as the ultimate destination is clear. Various routes to a comprehensive APL ban might work. Negotiations evolve. We need not be stymied today by uncertainty about how to handle every turn and bump that may appear in the road tomorrow.

The fourth objection is that APL negotiations here would be incompatible with the Ottawa process. But simultaneous negotiations in this body and in Ottawa are complementary, not competitive. Each makes a valuable contribution. One is quick, involving willing countries; the other is broad and deep, involving every country represented here. They both pursue the same ultimate goal. Neither process need interfere with the other. Each can augment the other.

Complementarity means that Geneva and Ottawa, together, can save more lives and limbs than either could save alone. Of course, the Conference need not fear that it will be bound by any particular product or method of the Ottawa Process, for this body inevitably will develop its own text in its own way. Those participating in the Ottawa Process do so with our good wishes. So long as this Conference bends to our common task, Ottawa's momentum and success should only inspire and heighten our own (Holum, 1997b).

Mr. Holum concluded his statement with a gloom prediction for the future of the CD if the current impasse in the negotiations was not settled soon:

I suggest that grave damage can be done to the Conference on Disarmament itself -- as its credibility, standing and effectiveness are sapped by months of inaction, foreshadowing an empty future. What an irony that would be for those states who have waited years to join the Conference on Disarmament -- to miss out on its glory, and only share in its decline, as the real business of arms control seeks out more promising venues (Holum, 1997b).

On 26 Jun, during the 770<sup>th</sup> plenary meeting of the 1997 session of the Conference on Disarmament, Australian Ambassador John Campbell was appointed as one of four Special Coordinators, charged with conducting “consultations on a possible mandate on the question of anti-personnel landmines” under agenda item 6, *Comprehensive programme of disarmament*

(CD, 1997c).<sup>52</sup> Ambassador Campbell's responsibility as a Special Coordinator was to consider all the relevant proposals and views, both present and future, concerning anti-personnel landmines and then present an early report to the CD. Ambassador Campbell convened 55 bilateral consultations and presented his reports in statements made to the Conference on 14 Aug and 28 Aug 1997, respectively.

Although no agreements were reached in the CD during its 1997 session in reference to banning anti-personnel landmines, the topic was duly addressed by numerous state delegations in efforts to build upon the momentum of the Ottawa Process negotiations.<sup>53</sup> But as the sessions progressed, the landmine discussions and proposals being offered by the delegations were clearly divided into two distinct groups; one included those states that believed the CD was in fact the proper international forum for negotiating a landmine ban and the other included those states that believed the CD was not the proper forum to discuss banning anti-personnel landmine. As recognized previously by the early Ottawa Process organizers, these positions tended to reflect how a state viewed the global crisis—as a humanitarian or security problem. While most states were clear on their position, for US leadership, this continued to be a gray area of concern. In a message from US President Clinton, submitted to the Conference by Ambassador Stephen J. Ledogar, the President recommended that the Conference participants should:

... take the next steps on the road to a more secure world [and achieve the] negotiation *as soon as possible* of a comprehensive, global ban on anti-personnel landmines. These weapons of war have caused terrible suffering to innocent civilians and represent an enormous obstacle to restoring a more hopeful life after a conflict has ended. All the children of the world deserve to walk the earth in safety. I call on the Conference to press

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<sup>52</sup> The other three were Ambassador Mounir Zahran of Egypt, Special Coordinator on “the improved and effective functioning of the CD;” Ambassador Harald Kreid of Austria, Special Coordinator on CD expansion; and Ambassador Péter Náray of Hungary, Special Coordinator on the review of the agenda of the Conference on Disarmament (Johnson 1997b).

<sup>53</sup> The majority of the discussions and proposals during the CD's 1997 session were for the prompt negotiation of a ban on producing fissile material for use in nuclear weapons, which was also fully supported by the US.

forward with a renewed sense of purpose, to demonstrate to the world its capability to ... advance the process of ... conventional disarmament (Clinton, 1997b).

As previously pointed out by most Ottawa Process advocates, traditional arms control negotiations within the Conference on Disarmament had been a slow-going effort in reaching any form of consensus on agreements and thus any negotiations in the CD concerning an international agreement to ban anti-personnel landmines would likely not be an exception to this process. This is no more evident than documented in the transcripts of the deliberations held during the 767<sup>th</sup> plenary meeting on Thursday, 12 Jun 1997. The presiding President of the meeting was Mrs. Diallo from Senegal. An excerpt from the transcripts is offered here to highlight the frustrations that Conference negotiators seemed to harbor after months of negotiations in which no agreement or consensus to solve the global landmine crisis appeared in sight:

**Ms. Crittenberger (United States of America):** We have heard many times over the past several weeks in formal and informal consultations of the description that there is no consensus on one or another issue. We have also heard pointed calls for transparency in this forum. Unfortunately, the phrase "no consensus" is not a transparent phrase, and it does not really offer us the tools that we would need to move forward. Looking at the progression of the calendar, today is already 12 June. The delegation of Finland has asked that a decision be taken today on the so-called 22 May proposal, contained in document CD/1458, as modified by all of us in informal consultations, and now available in all languages.

Regarding yesterday's Presidential consultations, or any other Presidential consultations, I would like to note that these forums are not decision-making forums. They are really devices to help the President on how to conduct the formal meetings. The plenary is the decision-making body. It seems to my delegation that no conclusions reached in informal Presidential consultations can bind us in this setting, the formal decision-making body of the Conference. So, with an appeal for transparency, and with an appeal for the desire to take decisions and to know where we stand, I would like to support the proposal that we take a decision today on the document contained in CD/1458, as revised by us in informal consultations (CD, 1997a).

**Mr. Amat Fores (Cuba - translated from Spanish):** For weeks now we have been hearing about the deadlock in the work of the Conference, and we wonder whether we are

deadlocked or whether we have spent all this time groping blindly about in the dark. We see how many proposals of all sorts have been made, and the problem is that we have not carried out the exercise of formulating our plan of work, which is stipulated in the rules of procedure of this Conference. It is as if we tried to build a house without having drawn up plans and began to discuss how to make the roof, whether making the terrace will not cause problems, and whether we are going to start with the terrace or whether we should deal with the windows first of all (CD, 1997a).

**The President (translated from French):** There is no consensus on the request for the appointment of a special coordinator on anti-personnel landmines. We all knew it - let us be honest enough to admit that that was the case. I had hoped, during the Presidential consultations yesterday, to continue the informal consultations so as to enable us to succeed in finding a solution. That has not been done for the time being. I propose once again that the Chair should be allowed to continue the consultations so as to succeed in finding a solution which can secure the support of all sides. If you agree, I will therefore hold these consultations, in various forms, which I would ask you to leave to my discretion. I give the floor to the representative of the United States of America (CD, 1997a).

**Ms. Crittenberger (United States of America):** Thank you for at least putting the question that had been requested of you. I wanted to seek clarification regarding your summary. I believe I heard you say that there was no consensus in the Conference for the appointment of a special coordinator on mines. I believe what we had no consensus on was a specific proposal, CD/1458, as revised on 22 May. So I hope that we do not reach the conclusion prematurely that there is no consensus at all for a special coordinator (CD, 1997a).

That there seemed to be little progress frustrated many and the ICBL advocates and supporters firmly believed that any negotiations within the United Nations system would be “held hostage to rule by consensus” and so they were not particularly surprised by the stalled efforts in the CD to agree on a landmine ban (Williams and Goose, 1998: 45). But for negotiators in the Conference on Disarmament, consensus was required before any negotiated agreements were adopted. Simply defined, consensus is a process by which “each of the stakeholders” in a negotiation “agrees they can live with a proposed solution, even though it may not be their most preferred solution” (Gray, 1989: 25). While a major disadvantage of the rule of consensus in negotiations is the time factor—consensus can be a very slow, time-consuming

process—the main benefit of consensus to negotiators is that any resulting decisions are guaranteed to meet the interests of all participants involved, thus increasing “the quality of solutions developed” by the negotiators and transforming the participants “toward inclusiveness and respect” (Shearouse, 1993: 3; Burgess and Spangler, 2003; IOTP, 2005).

Another advantage of rule by consensus comes from the process itself. Consensus-building “fosters the exploration of joint gains and integrative solutions and permits stakeholders to deal with interrelated issues in a single forum,” thus allowing any negotiations’ “stakeholders to make trade-offs between different issues,” which then “allows the development of solutions that meet more people’s needs more completely than decisions that are made without such widespread participation” and full stakeholder buy-in to solutions is more likely to happen (Burgess and Spangler, 2003). For consensus to work properly, “an atmosphere of trust and appreciation of different opinions should be created” and “there should be a willingness to work through differences” (Shearouse, 1993: 3). In his statement to the Conference on Disarmament on 30 Jan 1997, UN Secretary-General Kofi Annan offered his support for the rule of consensus:

One of the strongest instruments the Conference has, at its disposal, is a consensus approach to problem solving. Without consensus, the solid foundations needed for further disarmament agreements and concerted international action cannot be built. Consensus protects the interests of each State, big or small, and ensures that negotiated treaties and conventions command the widest possible support (Annan, 1997b: 3).

While the CD may have taken years to negotiate arms control agreements, the rule of consensus appeared to be the proper negotiation process for this international forum. With that said, it was a moot point for pro-ban advocates to declare that they would not be held hostage to rule by consensus because in order to board the Ottawa Process train in the first place; participants had to already agree to a total ban solution—in reality, no negotiations or consensus was necessary to reach a conclusion that everyone had agreed to from the start.

## The Ottawa Process Negotiation Conferences

With the impetus of UN Resolution A/RES/51/45S “vigorously” steering the Ottawa train towards an international agreement to ban the use, stockpiling, production, and transfer of anti-personnel landmines “as soon as possible,” the ICBL and pro-ban advocates initiated the Ottawa Process efforts with fervor. In addition to the three key diplomatic conferences of the Ottawa Process negotiations and the fourth international NGO conference, numerous regional conferences were held around the world to rally governmental support for the campaign.<sup>54</sup>

One of the main goals of these international meetings for the Ottawa Process advocates was to “combine state-led diplomatic activism with NGO-led advocacy through the media and a growing number of prominent supporters of the ban” (Lawson et al., 1998: 173). The constructive impact of these conferences on the Ottawa Process came from the “unique synergy that developed among the political, bureaucratic, and civil society supporters of the ban” (Lawson et al., 1998: 174).

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<sup>54</sup> These regional conferences included: *The 4th International NGO Conference on Landmines: Toward a Mine-free Southern Africa* - hosted by the ICBL and the Mozambique Campaign to Ban Landmines, Maputo, Mozambique, 25-28 Feb 1997; *Tokyo Conference on Anti-Personnel Landmines* - hosted by the Government of Japan, Tokyo, Japan, 6-7 Mar 1997; *Regional Seminar for States of the Southern Africa Development Community* - organized by the ICRC in cooperation with the Organization of African Unity (OAU) and the Republic of Zimbabwe, Harare, Zimbabwe, 21-23 Apr 1997; *OAU Conference on a Landmine Free Africa: the OAU and the Legacy of Anti-Personnel Mines Plan of Action*, Kempton Park, South Africa, 19-21 May 1997; *A Global Ban on Anti-Personnel Mines: Central Asia Regional Conference* - hosted by the Government of Turkmenistan, organized with the Government of Canada, the ICRC and the ICBL, Ashgabat, Turkmenistan, 10-12 Jun 1997; *Seminar on Anti-Personnel Mines and Strategy Workshop (for countries of the Baltic and Eastern European Region)* - organized by the Swedish UN Association, Christian Council of Sweden and Swedish Save the Children Fund, Stockholm, Sweden, 23-25 May 1997; *Meeting on the Australian Position* - Organized by the ICBL, Sydney, Australia, 14-17 Jul 1997; and *Anti-Personnel Mines: What Future for Asia?* - ICRC Regional Seminar for Military Experts, Manila, Philippines, 20-23 Jul 1997.



## The Vienna Conference

At the end of the Ottawa Conference in Oct 1996, the Austrian government circulated to the new Ottawa Process participants a “draft text” document for consideration as a primer to an eventual landmine ban treaty to be negotiated and signed by Dec 1997, in accordance with Canadian Foreign Minister Axworthy’s challenge. The Austrian’s idea for the draft text traced its origins back to Apr 1996 after the Austrian delegation became discouraged with the slow pace of the Review Conference of the CCW. Believing that a comprehensive treaty to totally ban anti-personnel landmines could be written in “short, clear and simple” terms, the author’s circulated their draft outline amongst other “like-minded colleagues and NGOs” for consideration and comments. In order to assist the widest approval of the draft treaty text, which would curtail the time needed for future negotiation efforts, the Austrian’s used language and verbiage from pre-existing treaties whenever possible. It was this early work on a draft treaty that guided Canadian Foreign Minister Axworthy to task the Austrian’s to develop the first draft of the future Ottawa Convention (Hajnoczi et al., 1998: 292).

To facilitate the initial groundwork for a legally binding international agreement to ban anti-personnel landmines and to elaborate a first draft to be negotiated in Belgium in June, the Austrian government sponsored the *Expert Meeting on the Text of a Convention to Ban Anti-Personnel Landmines* at the Austria Center from 12 - 14 Feb 1997. According to Austrian officials, the lengthy, official title of the Vienna Conference was purposely chosen to increase participation for all states, “including those hostile to the Ottawa Process” (Hajnoczi et al., 1998: 294). Their strategy paid off well, diplomatically, as 111 states attended the Vienna Conference,

although not all as active participants, such as the United States.<sup>55</sup> One encouraging item for the Ottawa Process pro-ban advocates was that of the over 30 opening statements delivered to the Conference, close to half, mostly from Asian, African, and Latin American governments, expressed their support for a total ban on anti-personnel landmines (Walkling, 1997). This level of participation was an indication that it was becoming “increasingly politically desirable to be seen as part of the Ottawa Process” (Hajnoczi et al., 1998: 294).

The Vienna Conference officially opened at 10 am on Wednesday morning, 12 Feb 1997. The first day’s agenda included a full schedule of conceptual debates on several substantive questions of the draft text. Accordingly, no decision or reports were expected to take place at the meetings. In fact, the organizers specifically stated that other matters of the global landmine problem or procedural discussion, such as the most appropriate forum for negotiations, would “not be dealt with” and the meeting would “exclusively focus on the substance of a convention, working on the basis of the Austrian tentative draft” (GICHD, 2005f). The next two days’ agenda consisted of informal debates to consider and discuss each of the conventions articles.<sup>56</sup> These meetings were closed to NGOs, although representatives of the United Nations and the International Committee of the Red Cross (ICRC) were invited to attend.

In a press release issued on the last day of the Vienna conference, the ICBL declared the three-day conference a “great success” and its coordinator, Ms. Jody Williams, offered her observation that the results of the meetings demonstrated that “the world is inexorably on the path to a total ban on anti-personnel mines” (ICBL, 1997a). The ICBL hosted a press conference the same day with the ICRC and senior level Austrian and Canadian government officials to

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<sup>55</sup> Other States attending the Vienna Conference in Observer-status were Finland, Turkey, Cuba, Pakistan, India, and Russia (Walkling, 1997).

<sup>56</sup> Debate on articles 1-6 was scheduled for Thursday, 13 Feb 1997 and articles 7-9 for Friday, 14 Feb 1997.

brief reporters on the outcome of the Vienna Conference. Ms. Williams concluded that based on the results, it was clear to the ICBL that the “political will exists in many nations to conclude a ban agreement” by the end of the year (ICBL, 1997b).

### **On Track to Brussels**

Based on the wealth of comments and draft proposals received by close to 70 governments, as well as, the ICRC and the ICBL, the Austrian government issued a second draft of the treaty now entitled the "Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction," on 14 Mar 1997. The following month, the German government hosted the *International Meeting of Experts on the Possible Verification of a Comprehensive International Convention Prohibiting Anti-Personnel Landmines*, which was the next Ottawa Process conference that specifically dealt with work on revisions to the draft text of the treaty. The expert meeting took place from 24-25 Apr 1997 in Bonn, Germany and was attended by representatives of over 120 states, as well as, the UN, ICRC, and ICBL.

According to the chief authors of the original Austrian draft, the main purpose of the Bonn conference was to “consider in concrete terms the applicability of traditional verification measures for the various obligations” of the treaty (Hajnoczi et al., 1998: 298-301). The major divide in viewpoints centered on those who preferred a more traditional arms control approach that demanded far-reaching verification measures and those who sought emphasis on the humanitarian law aspects of the issue which focused on compliance with specific norms (Maresca and Maslen, 2000; Sigal, 2006). In respect to the latter position, the ICRC issued a statement at the Bonn conference in support of the “maximum possible verification of compliance” and added that “the monitoring of compliance with a total prohibition on anti-

personnel landmines can be seen as a positive exercise, promoting the goal of the international community of eliminating anti-personnel landmines rather than operating primarily to detect possible violations” (Maresca and Maslen, 2000: 523).

After copious consultations, in which little agreeable progress was achieved, the Austrian’s presented a compromise version that was at least “conceptually acceptable for everyone (Hajnoczi et al., 1998: 301). After revisions were received and updates incorporated again into the document, a third and final draft treaty was transmitted worldwide by Austria on 13 May 1997 and formally handed over to UN Secretary-General, Kofi Annan, by the Austrian Foreign Minister a week later. This final draft served as the basis for negotiations on a total ban convention. The main elements of the final draft were: (1) a ban on use, production, stockpiling and transfer of anti-personnel landmines (APLs); (2) the destruction of all APLs with the sole exception of a number of APLs absolutely necessary for the development and teaching of mine detection, mine clearance or mine destruction techniques; (3) international cooperation and assistance for mine-affected countries; (4) transparency measures; (5) national implementation measures; and (6) a structure to facilitate compliance-Meetings of States Parties (GICHD, 2005e).

The official follow-up to the 1996 Ottawa Strategy Conference was the *International Conference for a Global Ban on Anti-Personnel Mines* conference hosted by the Belgium government in Brussels from 24-27 Jun 1997. Attendance by more than 150 States and more than 130 NGO representatives from 40 countries was a reflection of the high level of multilateral engagement that the Ottawa Process had been able to achieve in the eight short months since Canadian Foreign Minister Axworthy issued his challenge to the international community. According to the 1996 Ottawa Declaration, one of the main objectives of the Brussels

Conference would be to check the status of the Ottawa Process in reaching the goal of an international ban on anti-personnel landmines. Although there were no formal negotiations at the Brussels Conference, it was expected to pave the way for the formal negotiations to be held later in Oslo in at least three key ways: (1) through the Brussels Declaration, the Conference would identify those states willing to make a political commitment to launch formal negotiations with the objective of concluding negotiations and signing a treaty by the end of 1997; (2) the Conference would provide an additional opportunity for a substantive discussion and further development of a draft treaty text; and (3) the Conference would also provide an excellent focal point for building public awareness of the anti-personnel mine issue and corresponding political will for urgent action to conclude a ban treaty by the end of 1997 (GICHD, 2005f: 2).

As with the previous Ottawa Process conferences, all states were invited to attend with their level of participation indicated by the “self-selection” process. In other words, official participants were those states that fully supported the substance and content of the Brussels Declaration (Appendix Q), which was widely circulated prior to the start of the conference. The ICRC and relevant UN organizations, to include the ICBL, were also invited to participate in the proceedings with other NGO representatives given the opportunity to participate if their government chose to include them as members of their state delegations (GICHD, 2005f: 2-3). The United States attended the Brussels Conference as an observer.<sup>57</sup>

The Brussels Declaration was a political declaration which detailed the major components of a comprehensive treaty to ban anti-personnel landmines, to be concluded by December 1997, and it incorporated the essential elements of such a treaty as outlined in UN

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<sup>57</sup> Other Observer States included Albania, Algeria, Argentina, Armenia, Azerbaijan, Bangladesh, Bulgaria, Chile, Cyprus, Cuba, Libya, Finland, Holy See, India, Indonesia, Iran, Israel, Japan, Kazakhstan, Republic of Korea,

Resolution 51/45S adopted the previous December. It also officially forwarded the final Austrian draft treaty text to the Oslo negotiations. The Brussels Conference included an opening plenary meeting followed by two days of substantive deliberations concerning the draft treaty text. The last two days of the Conference were considerably more political in nature with a series of round table discussions being chaired by the Belgium Minister of Foreign Affairs to debate various elements of the anti-personnel landmine issue. Although support for the draft treaty text was increased, the level of debate and discussions between participants was kept very general with the idea that the formal negotiations would begin at the upcoming Oslo Conference. As with previous conferences, numerous official statements and speeches were presented at the Brussels Conference offering support for the Ottawa Process and the achievements of the global ban campaign over the last year.

For example, the President of the ICRC, Mr. Cornelio Sommaruga, declared that the international acknowledgment of the Ottawa Process was “an unequivocal expression of the revulsion of public and statesmen alike at the ‘mass destruction in slow motion’ we have witnessed through the widespread use of anti-personnel mines” and that his organization welcomed “the initiative being taken ... not only as a means of creating a new international humanitarian law treaty but as a return to the practice, well established in classical international law, of developing and universalizing law through national initiatives rather than relying solely on consensus negotiations, which frequently can lead to a lowest-common-denominator result (GICHD, 2005g). Mr. Sommaruga also requested that Conference attendees “never forget that the legal prohibition of anti-personnel mines must be firmly rooted in the stigmatization of this

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Romania, Russian Federation, Saudi Arabia, Sri Lanka, Morocco, Poland, Thailand, Tunisia, Turkey, Ukraine, Uzbekistan, and Vietnam.

weapon as a weapon of war so that, whatever their knowledge of the law, combatants will choose not to use this arm because their consciences and communities will not tolerate it (GICHD, 2005g).

One distinctive feature of the Brussels Conference that made it different from past diplomatic conferences was the amount of participation and influence of more than 130 NGO representatives from over 40 nations. In addition to the “mock minefield” set up outside the Conference facility that required government delegates to navigate through everyday, other ICBL activities included: “a cycle race from Paris to Brussels with participation of landmine survivors; the display of a ‘Giant Pair of Jeans’ with one leg symbolically shredded; a Public Awareness Day with a de-mining demonstration; an official presentation of a ‘landmine victim’ outfit for the *Mannekin-Pis* (the famous symbol of Brussels); and a variety of displays and exhibits” (Williams and Goose, 1998: 41). For the US delegation sent to Brussels as observers, the experience was unlike any they had ever witnessed in terms of traditional UN forum negotiations.

The head of the US team, Ambassador Thomas McNamara, was instructed not to participate in the proceedings; instead, a mid-level official sat as the observer. But while the debates were kept general for the purposes explained earlier, the diplomatic bargaining of the US team was not curtailed by any means. One-on-one, bilateral consultations with other governments took place in the corridors in an attempt to elicit as much intelligence as possible from them. As Ambassador McNamara explained, he was “trying to find out how far everybody [was] willing to go—or how far they think they [were] going to be driven” (Sigal, 2006: 173). The US was especially interested in seeking support for a landmine use exception for the Korean Peninsula and for the explicit, unlimited right to use “smart” mines.

Once the ICBL leadership became aware of the negotiation tactics being employed by the US delegation, they quickly issued statements of disapproval in response to what they saw as the US “testing the waters to see how many holes [could] be shot in the treaty in order to accommodate US policy” (Williams and Goose, 1998: 41). The ICBL coordinator, Ms. Jody Williams, had made it quite clear to the Conference participants in her address to the opening plenary that the ICBL strongly advocated a “simple, comprehensive ban treaty” with “no exceptions, no reservations, no loopholes” (ICBL, 1997c). The uncompromising position of the ICBL did not go unnoticed by the US delegation. During an Interagency Working Group meeting back in Washington, Ambassador McNamara attempted to explain to his US cohorts that their once traditionally private, bilateral negotiation tactics would not work in the Ottawa Process. As he recalled:

I remember coming home and telling people that governments weren't running Brussels. NGOs were. It was the new diplomacy in which NGOs had virtually equal status inside the delegations and you had NGO delegations sitting around the table. It was a free-for-all. It was the first I'd seen governmental delegations in which the nongovernmental elements were in charge. The Belgians had, in effect, turned the conference over to the NGOs (Sigal, 2006: 173).

In addition, he offered his summation of the Ottawa Process negotiations, telling the Working Group members that “the Canadians, the Belgians, and the Austrians [had] gotten on the back of a tiger, but they [were] certainly not guiding it at all” (Sigal, 2006: 173). Whether or not the US officials fully believed the Ambassador's description or not, they would soon learn first hand just how much different the Ottawa Process negotiations were when they arrived at the Oslo Conference in September 1997.

At the conclusion of the Brussels Conference, 97 States indicated their support and willingness to be recognized as official participants for the upcoming Oslo Diplomatic



Conference negotiations by signing the Brussels Declaration.<sup>58</sup> The Brussels Declaration was formally presented to the Secretariat of the CD by the Office of the Permanent Representative of Belgium on 16 Jul 1997 to be circulated as an official document of the Conference on Disarmament.

As indicated by the overwhelming attendance at the Brussels Conference, the global campaign to ban landmines and its associated Ottawa Process negotiations had gained significant international support to draw avid political pressure unto US government officials. Unable to ignore the political momentum of the ongoing Ottawa Process negotiations, troubled with the slow progress in the CD towards any sort of ban on landmines, and concerned that waiting too late would limit their influence in the remaining Ottawa Process negotiations, US leadership initiated high-level, preliminary talks to contemplate their options. For instance, several US officials traveled to Germany for consultations with German, British, and French government counterparts, who advised the team to seriously consider getting the US into the Ottawa Process now or risk being totally isolated from any chance to influence the process once they did join (Sigal, 2006). During this time, numerous interagency meetings were held at the assistance secretary level. These meetings at times became intensely volatile, as one US State Department official described the scene, “everybody showed up; it was meat axes and Bowie knives” (Sigal,

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<sup>58</sup> These included: Angola, Antigua and Barbuda, Austria, Bahamas, Barbados, Belgium, Belize, Benin, Bolivia, Bosnia Herzegovina, Botswana, Brazil, Burkina Faso, Cambodia, Cameroon, Canada, Cape Verde, Chad, Colombia, Republic of Congo, Costa Rica, Croatia, Czech republic, Denmark, Dominica , El Salvador, Ecuador, Ethiopia, Fiji, France, Gabon, Germany, Ghana, Grenada , Great Britain, Guatemala, guinea, Guyana , Haiti, the Holy See, Honduras, Hungary, Ireland, Italy, Ivory Coast, Jamaica , Jordan, Lesotho, Liechtenstein, Luxemburg, the Former Yugoslav Republic of Macedonia, Malaysia, Malawi, Mali, Malta, Mauritania, Mexico, Moldova, Monaco, Mozambique, Namibia, the Netherlands, Nicaragua, Norway, New Zealand, Panama, Papua New Guinea, Paraguay, Peru, the Philippines, Portugal, Qatar, Rwanda, Saint Kitts and Nevis , Saint Lucia , San Marino, Saint Vincent and the Grenadines , Senegal, Seychelles, Slovakia, Slovenia, south Africa, Spain, Sudan, Sweden, Switzerland, Surinam , Swaziland, Tanzania, Togo, Trinidad and Tobago , Turkmenistan, Uruguay, Venezuela, Yemen, Zambia, Zimbabwe

2006: 194). The final outcome indicated that for the most part, each of the key agencies—the State Department, National Security Council (NSC), Pentagon (OSD), Joint Chiefs of Staff (JCS), and the Arms Control and Disarmament Agency (ACDA)—all eventually agreed to support going to Oslo in some fashion, albeit with various reservations.

For instance, while the OSD opposed participation, if the decision was made to attend, certain “red lines” needed to be agreed upon in the negotiations before any for support for signing the Ottawa Convention would be considered. In fact, as will be discussed later in the chapter, the five “red lines” offered by the US delegation became extreme obstacles to agreements during the Oslo negotiations. On 15 Aug, President Clinton convened a meeting with Secretary of State Albright, who supported participation, Secretary of Defense Cohen, who reminded his boss that some issues would be non-negotiable, and National Security Advisor Samuel Berger to decide if the US should join the Ottawa Process or not. Without taking sides, President Clinton agreed with both of his advisors (Sigal, 2006).

### **The US Boards the Ottawa Process Train**

In an official statement released from Martha’s Vineyard, MA, on 18 Aug 1997, the White House announced that the "United States will participate in the Ottawa process negotiations on a treaty banning anti-personnel landmines." In his statement, President Clinton confirmed the US government's dual-interest position in the upcoming landmine negotiations, saying that the US "will work with the other participating nations to secure an agreement that achieves our humanitarian goals while protecting our national security interests" (White House, 1997a). While establishing intentions to participate in the Oslo negotiations beginning in September, Clinton maintained the US government's preference for the United Nations forum for landmine negotiations, stating that the "United States will continue other efforts to address the

problem of landmines, including our work to establish step-by-step negotiations toward a global ban in the Conference on Disarmament. Cooperation in the Conference on Disarmament on new steps in this area remains essential since that body's membership includes most of the major producers and exporters of anti-personnel landmines." However ambiguous the dual-interest position may have been to pro-ban advocates, it was clear that President Clinton, at the time of his statement, looked "forward to a successful conclusion" during the Oslo Convention negotiations, so that the US could "join with the other nations involved to sign a treaty in Ottawa in December" (White House, 1997a).

During a news briefing that same day, Assistant Secretary of State for Public Affairs, Mr. James Rubin, answered questions concerning the White House's announcement. When asked if President Clinton's Administration had been content with the tempo of the Geneva negotiations, he answered:

The United States has decided to participate in the Ottawa Process ... the trip that is being taken, led by Deputy Assistant Secretary Eric Newsom, including senior director at the NSC, Robert Bell and other officials ... is not about the CD process; it's about the Ottawa Process.

They will be meeting with some 17 countries ... to discuss how the United States can propose changes in the agreement that is emerging so that as it is negotiated ... we can be in a position to support that agreement and sign that agreement ... they will be going to this meeting and participating in the discussions ... on the treaty text with the goal of seeking to achieve our humanitarian international objective to ban land mines and ban their use and protect innocent children and innocent people from their effects (Rubin, 1997).

The US Administration recognized that in joining the Ottawa Process late in the game, support from allies already established in the process was vital to any success they thought they could achieve at the Oslo negotiations. But what they did not appear to realize was that the determination of the pro-ban states, as well as, the ICBL organizations, to keep the negotiations

as flexible as possible in order to achieve a "total ban" agreement and produce a treaty for signature by December 1997, did not include traditional negotiation strategies and tactics. Indeed, in his remarks, Mr. Rubin left no confusion on how the US saw itself during the Oslo negotiations when he stated that "at the same time, we are the United States; we are a global power; we have global interests. [The US delegation] will be seeking to reconcile our humanitarian objectives which are real and profound with our national security objectives which are also important (Rubin, 1997).

Given this stance, a key proposal to be offered by the US at the Oslo Conference, specifically, an exception concerning the protection of South Korea, was highlighted as Mr. Rubin continued his press briefing:

Korea is a place where the United States deploys forces in response to the fact that the war that went on there for a long time, our defense treaty with South Korea, the fact that North Korean forces are on a high state of alert and there is always a risk of attack from North Korea. Our planners, our defense officials, believe that anti-personnel land mines are required in order for us to fulfill this, frankly, United Nations' responsibility to protect the Korean Peninsula. . . . It strikes us as a perfectly reasonable exception, as one where you have a United Nations-generated force in a unique situation where there are unique dangers and that anti-personnel land mines at this point are the only tools that our officials, our Pentagon and our military believe can protect us from that genuine danger in the Korean Peninsula . . . let's remember why we're there. We're there in support of an international mandate from the United Nations (Rubin, 1997).

Many pro-ban advocates believed that once the US came to the negotiating table, it would be business as usual. The following exchange highlights two elements of conventional wisdom at the time: (1) that not everyone believed in the sincerity of the US entry into the Ottawa Process at such a late stage in the negotiations, and (2) that the campaign participants had clearly defined the cause of the global landmine crisis—one which the US held was not their:

**Reporter** - But Jamie [Rubin], like many of President Clinton's proposals, it looks good at first blush but once you peel back the covers, it turns out to not be at all what he was

talking about. This is not a ban on land mines; this is a ban on land mines that the United States doesn't want to use anymore. How would you defend that?

**Mr. Rubin** - Well, first I would categorically reject your characterization of President Clinton's habits and proposals. But getting to the specifics, we believe that the United States has taken a leadership role on land mines. We do not believe that U.S. policies - the U.S. land mines that we produce for these purposes - are the ones that have caused the damage around the world that we've seen about on television, in newspapers and in the reports that the government has put out. It's not our land mines that are causing the grave damage to the limbs and lives of little children around the world; it is the land mines of other countries. So in thinking about how to approach an issue like this, we have to bear in mind where the problem is.

The problem isn't American land mines; the problem is land mines in other countries. Now, because that's the problem, we are taking the high ground and offering to give up a weapon that we do not believe has caused the problems that we all know about and gone to extraordinary length to pay the cost to adjust our policies so that we have a greater chance of getting other countries - the ones whose land mines are exported, or whose weapons are the ones that have caused many of these problems (Rubin, 1997).

Mr. Rubin's statements during the news briefing quite clearly presented the US position going into the Oslo Conference. But as the US delegation to the upcoming Oslo Conference held in Norway would soon learn, Ottawa Process participants did not feel constrained by or obligated to pursue the traditional negotiation tactics common in past security related negotiations, such as exceptions or reservations to a treaty.

The main struggle for the US team at Oslo was in fact the realization that they were on the "wrong side of public opinion and never caught up" (Newsom, 2005). In fact, during the Oslo negotiations, the ICBL frequently asserted their pro-ban advocacy mantra of "no exceptions, no reservations, and no loopholes," which they felt would compromise the integrity of a "total ban" treaty. As the head of the delegation further described the situation, the US had entered the negotiations "hitting the Oslo Wall" (Newsom, 2005). As will be discussed in more detail in the next chapter, the late arrival into the Ottawa Process was detrimental to the US reaching an agreement with pro-ban advocates during the official negotiations in Oslo, Norway.

Although the United States' decision to join the Ottawa Process received encouragement from key allies and international pro-ban advocates, not everyone was comfortable with the decision. Key ICBL leadership expressed concerns that the US would not come to the Oslo negotiations as a like-minded participant, but would instead try to "put its full weight behind modifying the treaty to accommodate existing US policy" (Williams and Goose, 1998: 43). UN Secretary-General, Kofi Annan, welcomed the announcement of US participation in the international landmine ban negotiations taking place outside the UN system, but added that he hoped "that there will be progress in the parallel efforts being made in the Conference on Disarmament to achieve universality of a total ban on these horrific weapons (Annan, 1997c). Offering traditional ally support, Britain's Foreign Secretary, Mr. Robin Cook, welcomed President Clinton's announcement, stating that US participation would add weight to the negotiations and "give impetus to efforts to agree an effective international ban which the British Government and others are actively seeking" (Cook, 1997).

In contrast, the US' decision did not receive the same endorsement from the Chinese government (Johnson, 1997a). The Chinese government initially held the notion that the five Permanent members of the UN Security Council would maintain solidarity concerning joining the Ottawa Process negotiations and so it relaxed its earlier position of complete opposition to anti-personnel landmine ban proposals and had offered, what it considered, flexibility in supporting the phased, step-by-step approach being advocated in the CD. Ambassador Sha Zukrang indicated that since the United States, as well as, two other Permanent members, Great Britain and France, had all agreed to join the Ottawa Process negotiations, his government would now have to re-evaluate its position on whether or not to consider the Conference on

Disarmament as an appropriate forum for negotiations on banning anti-personnel landmines (Johnson, 1997a).

In her statement to the Conference on 21 Aug 1997, Ms. Katherine Crittenberger, the US representative, further clarified the US decision to join the Ottawa Process negotiations:

I take the floor this morning briefly to note formally the US policy decision concerning anti-personnel landmines ... President Clinton has made clear his firm commitment to conclude *as soon as possible* (emphasis added) a comprehensive worldwide agreement banning the production, transfer, stockpiling and use of APL ... [and] we want to take advantage of the momentum behind the Ottawa Process and help build on the support it already has.

She further acknowledged the Ottawa Process negotiations main objective--to conclude a treaty text for signing in December--and offered that the US would “work to secure an agreement that achieves our humanitarian goals while protecting our national security interests” (UNIS, 1997a). She also stressed in her statement that the US would still “remain committed to the establishment of step-by-step negotiations toward a global ban” in the Conference on Disarmament (CD), offering that these negotiations were “essential since the CD's membership includes most of the major historical producers and exporters of APLs” and that the US would “also continue ... efforts to ratify the CCW (Convention on Conventional Weapons) Amended Mines Protocol and urge others to do the same” (UNIS, 1997a).

In addition to ongoing statements by State participants, the Special Coordinator appointed to oversee the attainment of a mandate on banning landmines in the CD, Australian Ambassador John Campbell submitted reports to the Conference on 14 Aug and 28 Aug 1997 describing the progress of the negotiations that had taken place concerning anti-personnel landmines. In his two reports, Ambassador Campbell offered four possible options for the CD to consider concerning anti-personnel landmines: (1) a comprehensive mandate along the lines proposed by

Japan and Hungary on 15 May, with the objective of negotiating an effective, legally-binding international agreement to ban the use, stockpiling, production and transfer of APL; (2) a phased or step-by-step approach under an overall comprehensive objective, such as that proposed by the United Kingdom on 30 January, starting most probably with a ban on exports, imports and transfers of APL; (3) a partial approach, according to which an ad hoc committee would consider discrete issues, such as exports and transfers and/or verification, but without the overall declared objective of seeking the total elimination of landmines; and (4) an ad hoc committee 'simply to review and discuss the world situation regarding landmines', but with no negotiating mandate (Johnson, 1997a). Ambassador Campbell also reported that the mandate with the majority of support in the CD at the current time was the phased, step-by-step approach proposed by the United Kingdom. Of the 55 bilateral consultations he oversaw, he concluded that “a clear majority of delegation members of the Conference are in favor, or are at least not opposed to, appropriate work commencing in the CD on landmines” but added that at least two delegations requested additional information and two still remained opposed to anti-personnel landmines in the CD (Johnson, 1997a).<sup>59</sup>

While the ICBL and other pro-ban advocates were publically disgruntled with the non-progress of the CD negotiations over the previous sessions towards solving the global landmines crisis, even the US delegation appeared frustrated with the impasse. Ms. Crittenberger offered the following “reflections and comments” to the Conference participants:

Unlike last year, it is not a year for which any of us should be proud. And, while not surprising, it is nonetheless disappointing that the differences between participants over priorities in 1997 prevented the CD from engaging collectively in any substantive work on any of the issues related to its agenda. It is clear that the divisions within the CD

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<sup>59</sup> The United States’ southern bordering neighbor, Mexico, maintained that nuclear disarmament should be the top priority of the CD and argued that the forum should not work on landmines at all



reflect genuine foreign policy differences and priorities among the member States. These divisions and the CD's concomitant lack of progress this year, however, should not constitute a reflection on the Conference on Disarmament itself as an institution. As we have all witnessed or are aware of, the Conference is as productive as it is allowed to be; no more, no less. Policy differences notwithstanding, there also seemed to be, at times, a fundamental lack of desire and will to achieve any substantive results (CD 1997b).

Any frustrations with the previous sessions' roadblocks notwithstanding, she did offer suggestions on how participants might overcome future negotiation impasses:

In any negotiating situation, be it labor relations, a real estate transaction, [or] diplomacy, ... the parties must be committed to a continuing relationship and a reasonably acceptable outcome. This is the so-called "win-win" situation in which the parties achieve some, if not all, of their objectives. The parties must work to narrow their differences, to settle the issues that can be resolved, and to set aside the issues on which there can be no agreement. The ideal outcome is for the negotiators to leave the bargaining table reasonably satisfied that all have won something and that no one has lost or capitulated (CD 1997b).

Although Ms. Crittenberger had described to the Conference integrative bargaining strategies, she then offered the following comments which appear to contradict the eventual "all or nothing approach" the US delegation would actually take during the upcoming Ottawa Process negotiations in Oslo, Norway:

The alternative [to using integrative bargaining strategies and tactic] is divorce, resulting from irreconcilable differences or, in CD parlance, linkage and a time bound framework, a sure recipe for torpedoing any progress on substantive issues. By this "all or nothing approach" practiced in the CD this year, concrete progress on specific and timely issues, issues ripe for multilateral negotiation, was held hostage to demands for an agreement to negotiate multilaterally nuclear disarmament in a time bound framework ...

[The US] delegation has certainly tried to show flexibility and a willingness, in principle, as well as throughout the year, to discuss topics that we do not particularly wish to discuss. Our flexibility was based on an individual appraisal of each topic. If we are to negotiate in 1998, the Conference on Disarmament will have to determine what it is realistically capable of negotiating, and not what individual members see as their only priority. Without flexibility and a significant change in attitude, our prospects for 1998 are no better than the year we have just concluded (CD 1997b).

On Tuesday, 9 Sep 1997, the Conference on Disarmament concluded its negotiations for the year--the same week that Ottawa Process negotiators began their negotiations in Oslo, Norway to finalize Minister Axworthy's challenge from a year ago of an international anti-personnel landmine ban agreement ready for signature by December 1997. As predicted by Ottawa Process advocates and key ICBL campaigners, the Conference on Disarmament was unsuccessful in reaching agreements on a work program; even though an agenda had been adopted very early in the negotiations (UNIS, 1997b). Also, for the first time in its history, the Conference on Disarmament had failed to create a single Ad Hoc committee on any topic of the agenda (Boese, 1997; Johnson, 1997b).

### Summary

This chapter described the events that occurred during the negotiation efforts of the global campaign to ban landmines from Sep 1996 through Sep 1997. The study shows that the US was in its "negotiations stage" of the campaign during this period. It also shows that the ICBL and pro-ban advocates' campaign efforts leading up to the conclusion of the *International Strategy Conference towards a Global Ban on Anti-personnel Mines* in Ottawa, Canada, on 5 Oct 1996, was still considered an element of their "pre-negotiations stage." As mentioned, for pro-ban States that supported the "total ban" position, the scope of events included in this "stage" is less obvious because some of these States were also participants in the negotiations that took place during the 1<sup>st</sup> Review Conference of the CCW and in the Conference on Disarmament. As discussed, Canadian Foreign Minister Lloyd Axworthy's surprise announcement at the conclusion of the International Strategy Conference held in Canada is widely considered the official start of the "Ottawa Process" and so was considered the same for this study. With that said, from Oct 1996 to the conclusion of the *Diplomatic Conference on an International Total*

*Ban on Anti-personnel Landmines*, in Oslo, Norway, which is covered in the next chapter, *The Diplomatic Conference to Ban Landmines*, the Ottawa Process negotiation efforts of the pro-ban advocates are considered as their "negotiation stage."

In sum, the United States maintained its political rhetoric that it was the leader in the global campaign to ban landmines, but usually found itself throughout 1997 one-step behind the pro-ban campaigners and the supporters of the Ottawa Process in the movement toward an international agreement to ban landmines. While the US's choice to seek a ban on landmines within the Conference on Disarmament initially supported its position that the United Nations was the appropriate forum for negotiations, the international fervor of the Ottawa Process, as well as, the stalemate that had formed in the CD, overcame any political reasons to not join the Ottawa Process. But as was soon learned, their arrival was deemed too little, too late, to have any diplomatic influence on a joint solution with the ICBL and pro-ban advocates.

The following chapter, *The Diplomatic Conference to Ban Landmines*, continues to describe ongoing negotiations and presents the final events in the global campaign to ban landmines; specifically the official negotiations conference of the Ottawa Process. These negotiations convened in Oslo, Norway and produced an international agreement to ban anti-personnel landmines, known as the Ottawa Convention. The United States, entering the Ottawa Process just days before the start of the Oslo Conference, struggled within the constraints of the new diplomatic environment that was characteristic of the Ottawa Process negotiations. Significant events concerning other global efforts and events by the US and pro-ban campaigners that took place in the immediate aftermath of the Oslo Conference are covered. Chapter 7 will conclude with a discussion of the signing ceremony of the Ottawa Convention which convened in Dec 1997.

## CHAPTER 7 THE DIPLOMATIC CONFERENCE TO BAN LANDMINES

### **Introduction**

This chapter presents the diplomatic events and negotiation efforts of the US government and pro-ban advocates that occurred immediately prior to the opening of the *Diplomatic Conference on an International Total Ban on Anti-personnel Landmines*, in Oslo, Norway on 1 Sep 1997 to the Canadian-sponsored Ottawa Convention signing ceremony in Dec 1997. As was presented in the previous empirical chapters of this study, the parallel analysis of the overlapping negotiation efforts, arranged chronologically, provides the opportunity for examination of the participants' negotiation strategies and tactics in tandem. In this chapter, both groups of participants, the US and pro-ban supporters, are considered in their negotiation stage of the campaign. The US's continued through the 1997 session of the Conference on Disarmament, discussed in the previous chapter, which concluded in Sep 1997, and ended in its final participation in the Oslo Conference negotiations. The ICBL and pro-ban advocates' negotiation stage, which began at the conclusion of the Ottawa Conference in Oct 1996—commonly considered the official launch the Ottawa Process—continued until the closing of the *Diplomatic Conference on an International Total Ban on Anti-personnel Landmines*, in Oslo, Norway in Sep 1997. The chapter then concludes with a summary of the events presented.

### **On Track to Oslo**

Pro-ban states and the ICBL campaigners lost a high profile advocate when Britain's Princess Diana died on 31 Aug 1997. Princess Diana's two previous trips to landmine stricken countries earlier in the year--Angola in January and Bosnia-Herzegovina in June—had significantly raised international awareness for the ICBL organization and its anti-personnel

landmine ban efforts. In recognition of her international esteem and global landmine campaign contributions, Mr. Robert Bell, a US National Security Council official, announced in a statement given to the Foreign Press Center on 5 Sep that the US Congress had approved resolutions officially designating 6 Sep 1997 as a National Day of Recognition for the Humanitarian Efforts of Princess Diana. Her sincerity and devotion to landmine causes was widely recognized as genuine, as was her clear emphasis on the humanitarian aspects of the campaign.

### **Congressional Landmine Ban Advocacy**

Senator Patrick Leahy (D-VT) introduced bill S.896, the Landmine Elimination Act of 1997, several months earlier, in June, to ban new deployments of anti-personnel landmines beginning in the year 2000. Co-sponsors of the bill included 56 senators, including 15 Republicans. Senator Chuck Hagel, a conservative Nebraskan twice wounded by landmines in Vietnam, was the lead Republican co-sponsor. Representatives Lane Evans (D-IL) and Jack Quinn (R-NY) introduced counterpart legislation in the House. Senator Joseph Biden (D-DE), member of the Senate Foreign Relations Committee, offered the following comments in support of the Landmine Elimination Act:

[Bill] S.896 is a carefully constructed bill ... and that is a sign of the seriousness with which this body approaches the topic of landmines. Subsection 2(d) of the bill permits the President to delay application of the ban with respect to the Korean peninsula on a yearly basis if he determines that new deployments would be indispensable to the defense of the Republic of Korea if war should occur there. This is a broader exemption than that in the moratorium we passed 2 years ago, which allows such mining only along international borders and in the DMZ. Given the risk that a dying Stalinist regime in North Korea might throw all its forces into a last gasp effort to conquer the South, this broader exemption is sensible indeed (Cong Record, 1997: S5689).

Notwithstanding the above comments, Senator Leahy still feared possible US military opposition to the bill, expressing at the time:

Before some in the Pentagon start drumming up opposition to this bill, I would urge them to consider who is supporting it, and why we support it. This is not about taking away a weapon the Pentagon needs. It is about beginning the next century by renouncing a weapon that does not belong in the arsenal of civilized nations. The Pentagon has far more to gain if the use of anti-personnel landmines is made a war crime.

Finally, to those in the Pentagon who say that so-called "smart" mines — that are designed to self-destruct automatically — are the solution to this problem, I challenge them to find me a landmine that is smart enough to tell the difference between a soldier and a child. And let us not fool ourselves — the rest of the world does not use self-destruct mines, and they are not going to" (Cong Record, 1997a: S5609).

But as indicated from the following Department of Defense response during a news briefing a week later, when specifically which asked about the problem the Pentagon had with the bill, Senator Leahy appeared to be off the mark on other concerns the US military may have had:

**Reporter:** What specifically is the problem with Senator Leahy's bill? What's the Pentagon's objection to his plan?

**Pentagon official:** My understanding is that there is a push to essentially abandon the approach that the Administration is pursuing at this point with the Conference on Disarmament, and to go with what is called the Canadian proposal, the Ottawa Process. The problem with that is that the Conference on Disarmament actually involves a lot of the major producers of landmines, specifically Russia and China.

We believe that by including Russia and China, who have made it very clear that they are not, at least in the case of the Russians, that they're not willing to participate in the Ottawa process but will participate in the Conference on Disarmament, and in the case of the Chinese who have not yet made any decision on the issue, that there is a greater chance of total success in ultimately banning landmines altogether (DoD, 1997a).

### **The Military Experts Debate**

While the debate to ban landmines had openly flourished on the international negotiations stage, the US military had remained relatively silent on the issue. During the campaign, however, many former high-ranking soldiers were used by both sides of the debate, e.g., the 3 Apr 1996, "An Open Letter to President Clinton" signed by 15 retired generals in support of a total ban and the 21 Jul 1997 "Letter to President Clinton" signed by 24 retired generals in

opposition to the Leahy-Hagel bill. This seemingly non-committal position by the US military on the subject was to be expected, given the active duty military's subordinate relationship to the President, as Commander-in-Chief of the US Armed Forces. No active duty military member was going to openly give a public opinion on the topic of landmines counter to any "official" US position; but this did not mean that the US military remained totally silent or only represented the debate from a "security" stand point. In fact, even with this limitation, public debates were taking place between active duty US military leadership and the pro-ban advocates who sought to pressure the US military to take a pro-ban stand. One such debate took place during the PBS television program, *News Hour*, on 7 Aug 1997. The guest participants included the US Army Vice Chief of Staff, General Ronald H. Griffith and retired Lieutenant General Robert G. Gard, Jr., who was the president of the Monterey Institute of International Studies and also a military advisor for the Vietnam Veterans of America Foundation, a founding NGO of the ICBL organization.

Throughout the program interview, General Griffith, as an active duty military member, supported the President's desire to solve the landmine crisis. It was clear from his comments that the US military held the opinion that they were effective in pursuing both the humanitarian and security aspects of the landmine debate. General Griffith highlighted several areas of the debate that spoke directly to most critics of the US military. In reference to humanitarian interests, the Army Vice Chief of Staff held that the US had been the "moral leader on this issue" and that the US believed it was "fundamental that other nations also show the same responsibility" concerning landmines (Griffith, 1997). His statement was primarily directed towards the actions of states such as Russia, China, Iran and Iraq, who were not only notable non-participants in the Ottawa Process, but who the US government, as well as, the US military, believed were major

contributors to the cause of the global landmine crisis through their indiscriminate use of so-called "dumb mines." General Griffith stated:

... if you look at the places where young people are being maimed and killed ... it is not from land mines that have been planted by US forces because long ago we started destroying those mines. We have removed 3 million of those [dumb] mines. We're in the process of destroying those mines, 1.3 million have been destroyed. The mines that we use are self-destructing mines. Their life is very short. They would be used only in situations where we're protecting the lives of American forces, and we believe that is a very, very important issue for those of us who are charged with the well-being of America's youth (Griffith, 1997).

These comments clearly supported the US position that the proper use of "self-destructing and self-neutralizing" landmines, which the US maintained were not responsible for the current global landmines crisis, would be the morally right approach until a viable, alternative military capability could be developed for the military that would protect soldiers on the battlefield.

In response to General Griffith's remarks concerning the use of landmines to protect troops and the US stance towards the Ottawa Process negotiations, retired Lieutenant General Gard countered with specific comments that mirrored the pro-ban advocate's positions on these issues. Although he rightfully acknowledged the US military's concern of not wanting to "voluntarily give up a weapon that may under some circumstances save the life of a soldier" by stating that the "military are brought up with the objective of destroying the enemy's armed force with the fewest possible friendly casualties," he clearly placed the responsibility of balancing the humanitarian and security interests on the US President (Griffith, 1997). This public exchange was typical of the debates between pro-ban advocates and the US military at this time.

However, officially, the US military, in its advisory role to the President, had not yet solidified its recommendation to their Commander-in-Chief, at least not publicly. In the weeks before the Oslo Conference, the landmine issue became the focus of the press during Department



of Defense (DoD) news briefings. For example, during the Tuesday, 12 Aug 1997, afternoon news briefing, Mr. Kenneth H. Bacon, Assistant Secretary of Defense, Public Affairs, answered several landmine related questions from the press corps. When asked about the apparent non-committal position of the military, Bacon stated that the Joint Chiefs of Staff fully supported President Clinton's goal of the "eventual elimination of anti-personnel landmines." He also offered that the DoD had "played a leadership role in the world in moving toward [the eventual elimination of anti-personnel landmines]" by "unilaterally destroying our inventory of so-called dumb landmines which are the kind that cause the humanitarian problems that have been highlighted so much recently" (Bacon, 1997). In fact, Bacon went on in detail discussing operational changes the US military had taken towards solving the landmine crisis, stating that:

We have moved, for our tactical operations--with the exception of the Korean Peninsula which is a separate situation and so noted--toward a different type of tactical systems, the so-called smart mine that self destruct. So they do not lurk as hidden killers in the ground. They typically have a life of 4 hours, 48 hours. They can be set, but they self destruct. They do so with a very, very high degree of reliability, over 99.99 percent. So we have, one, taken the lead in proclaiming our determination to move away from the use of anti-personnel landmines. We have moved away from dangerous anti-personnel landmines that pose such a threat to civilians, and we are destroying our inventory of these dangerous so-called dumb mines (Bacon, 1997).

During his response to questions concerning the Pentagon's possible timeline for recommendations to President Clinton, he reiterated that while the Administration "wants a worldwide ban that is comprehensive, that is global, and that is verifiable," its focus "right now" is on "how best to achieve that." With the Oslo Conference being only a few weeks away, it was clear in Bacon's comments that the US had not yet agreed on the proper negotiating forum, acknowledging that:

Our current policy is to work through the UN Conference on Disarmament in Geneva. As you know, there's another track which involves the Ottawa Conference. We have not subscribed to the Ottawa Conference -- or the Ottawa Process, as it's called -- because it

is not comprehensive and global. It does not involve other countries that have huge inventories of mines and actually export mines which we no longer do.

So the question is which way to go, and that's currently under review -- whether we stick with the Conference of Disarmament or whether we move to the Ottawa Process or try to do both. That's what's under consideration right now. The [Joint] Chiefs [of Staff] are fully engaged in ways to maintain our leadership role in trying to reduce and ultimately eliminate the humanitarian problems posed by anti-personnel landmines (Bacon, 1997).

But within the course of a week, the decision by the US government on whether to participate in the Ottawa Process and attend the Oslo Conference would be decided.

### **Diplomatic Negotiations Begin**

The Norwegian Government hosted the "*Diplomatic Conference on an International Total Ban on Anti-Personnel Land Mine*" in Oslo, Norway from 1-18 Sep 1997. The Oslo Conference was the "official" diplomatic negotiations stemming from the Ottawa Process where participants sought to reach a negotiated agreement for a total ban on landmines. The opening session, on 1 Sep 1997, began with a brief moment of silence in recognition of the recent passing of Britain's Princess Diana, after which the attendees elected Ambassador Jacob Selebi of South Africa to serve as the conference President. Ambassador Selebi proved to be a strong choice for the conference, quickly establishing rules of engagement for voting procedures and agenda development. A significant aspect to these negotiations was the fact that the only states being allowed to vote at the conference were the signatories of the Brussels Declaration negotiated in Belgium at the *International Conference for a Global Ban on Anti-personnel Mines*. Also unique to the Oslo negotiations was the voting rule which allowed agreements to pass with a two-thirds majority vote, instead of the usual "consensus" rules that were characteristic of the United Nations negotiating forums; although no vote was ever taken.

United Nations Secretary-General Kofi Annan, in his opening remarks to the conference, offered the participants insight into what may be expected of them by the international community:

By gathering today in Oslo you are taking an important step towards the completion of this noble aim. Over the next three weeks, your negotiations will examine the provisions and language for a comprehensive ban on anti-personnel mines, under the Ottawa Process. The foundation that was built at the June Conference is a solid one. Ninety-seven countries announced their support for the Ottawa Process and agreed to negotiate the terms for an international treaty to be signed in December.

That treaty will serve not only as a complement but also as an inspiration for greater and swifter progress in the Conference on Disarmament's own deliberations towards a total ban on land-mines. Together, the two avenues can truly lead to a world-wide prohibition, including both the countries affected by land-mines and those which produce and export them.

A total ban on anti-personnel land-mines will mark the end of only one aspect of our fight against land-mines. No less important is the removal of millions of mines which have already been laid. Each mine cleared may mean a life saved. But we know also that for every one hundred thousand mines cleared a year, between two and five million mines are laid at the same time. The presence -- or even the fear of the presence -- of just one land-mine can prevent the cultivation of an entire field, robbing a family or perhaps an entire village of its livelihood.

You have embarked on a mission of genuine promise. The universal revulsion at the use of land-mines has reached unprecedented levels. Even within military circles, there is a growing conviction that land- mines are as great a threat to those who plant them as to anyone else. There is a widening consensus that the strategic utility of anti-personnel mines is marginal, and that in the growing number of conflicts with fluid frontiers, defensive minefields limit operational actions rather than enable them.

Finally, it is development itself that is held hostage to the curse of land-mines. Developing countries are too often twice cursed -- with poverty and with war -- land-mines being the most permanent, the most destructive wound of war. Without their elimination, refugees will be far less able to return, idle fields will be far less accessible, and peace itself will be elusive.

That is why your work is so important, that is why your aim of a complete ban holds such promise for imperiled millions around the world, not only the citizens but also the soldiers at risk. I salute you for your vision. I look forward to seeing you in Ottawa (Annan, 1997d).

Secretary-General Annan's speech was emblematic of the pro-ban rhetoric heard during the global campaign negotiations, which often included, for example, use of numbers for newly laid landmines that would be difficult to substantiate.

In his address to the Oslo Conference on 8 Sep, Senator Patrick Leahy described the setting of the Conference as a “unique moment in history that has united so many people from so many countries, in pursuit of a common goal” (Leahy, 1997a). He also expressed his sincere gratitude to the International Campaign to Ban Landmines campaigners. As he stated to those present:

You have created something that has significance that goes far beyond any of us here, or even the issue of landmines. Never before, have representatives of civil society collaborated with governments so closely, and so effectively, to produce a treaty to outlaw a weapon.

You did it through your mastery of the substantive issues, by building a diverse organization that reached around the globe and enabled landmine victims to bring their reality to the world of diplomacy.

You did it by staying focused on the ultimate goal, and by being relentlessly persistent. And you had the uniquely receptive audience of governments, especially Canada and Norway, who gave you the opportunity to participate in ways that may be unprecedented in history.

I know that it has not been easy. It never is when people of different nationalities and traditions get into the same boat and try to row together, especially when it involves trying to achieve something that has never been done before (Leahy, 1997a).

As much as he was motivated to give credit to the ICBL, Senator Leahy was also forthright in his explanation of why and how the international community had come to the point of negotiating a treaty to ban landmines outside the traditional negotiation forums. He stated:

Two decades ago, many of the same nations that are gathered in Oslo today met in Geneva to draft a treaty to address the growing concern about the effects of landmines on civilian populations. Landmines had been widely used in Southeast Asia, and they were being sown like seed in Afghanistan, in Central America, and in many African countries. Vast areas were being laid to waste, with the innocent paying the horrifying price. That

treaty, however -- the Conventional Weapons Convention -- utterly failed to achieve its goal.

It was doomed to fail because the fact that landmines are inherently incapable of distinguishing between civilians and combatants was never even acknowledged, much less addressed. Instead, vague limits were placed on how mines could be used -- limits which were routinely ignored. In the years since then, the devastation inflicted by landmines on innocent people, often the poorest people in the world, has increased dramatically.

It was the widespread recognition of the failures of that treaty which led to the Conventional Weapons review conference two years ago. Finally, it seemed, there could no longer be any excuse for doing whatever was necessary to stop the carnage wrought by landmines.

That was the hope. The reality was different. Rather than devise a road map for ridding the world of these indiscriminate weapons, governments fought to protect their right to use them. The idea of a ban was barely mentioned. The amended Protocol, while preferable to the original version, did far more to reaffirm the legitimacy of landmines than to stop their use. Once again, governments had failed to act with anything like the decisiveness that was called for.

So it is important to remember that the Ottawa process evolved only after years of failed attempts by governments to solve this problem in the traditional way. There was no shortage of impassioned speeches about the harm landmines were causing the innocent. But the expressions of outrage were always qualified with the assertion that the problem was not the mines themselves, but other people -- always other people -- who used them irresponsibly. And the carnage continued.

We hear those same arguments today. When a Pentagon official was asked about the tens of thousands of American landmine casualties in Vietnam, he said that was no longer relevant because "smart" mines had "solved that problem."

Of course they have not solved it. Almost no one besides the United States uses those mines, so to say that they are the solution simply misses the point. In Bosnia, more than 250 U.N. and NATO soldiers and thousands of civilians have been injured or killed by the same types of mines used in Vietnam a generation ago. Landmines that self-destruct may be preferable to the cheap mines that create a permanent hazard.

But why would other nations, which do not possess and cannot afford the sophisticated mines, sign or adhere to a treaty that bans their "dumb" mines but permits the use of the so-called "smart" mines for the same purposes? (Leahy, 1997a).

Senator Leahy stressed to the Conference, and more so to those in his own government seeking exceptions to any agreed upon treaty, that “an effective international agreement that is based on stigmatizing a weapon cannot have different standards for different nations.” (Leahy, 1997a). He then offered several central points which were intended to motivate the participants to achieve an effective international agreement to ban landmines. Senator Leahy declared to the Conference that:

This is not the Conventional Weapons Convention and it is not the Conference on Disarmament, where any government can obstruct a treaty for its own advantage.

This is not the typical gathering of diplomats to negotiate the least common denominator, which pleases everyone around the table and solves nothing.

This is not a time to argue that the limited military benefit from landmines outweighs their horrific humanitarian cost.

This is not a time to forget why we are here and to settle for half-steps.

The Ottawa Process has helped forge a new humanitarian force, blending the best of civil society, individual advocacy, and government action. Here in Oslo we stand on the brink of the success of this fledgling and valiant venture.

And so I say to all of the participants in Oslo: Seize this moment. This is a time to ban all anti-personnel landmines -- any type that is triggered by the victim – forever (Leahy, 1997a).

After his motivational comments were concluded, which were mainly intended for pro-ban participants, Senator Leahy focused on the more political aspects of the negotiations and the US’s recent decision to participate in the Ottawa Process negotiations at Oslo. As he informed the Conference:

I have spoken with the President many times about this. I am convinced that he wants to see these weapons banned, and I give him credit for deciding to take part in these negotiations. I believe that by participating, the United States, as the world’s strongest military power, can make for a stronger treaty. The United States has an unmatched ability to help secure compliance and broader acceptance of the treaty. The importance of this should not be underestimated.

But whether the United States, or any government, helps or hinders this process depends on what they do here. I regret very much that several nations that produce and use landmines have shunned the Ottawa Process. They should be here. There is no excuse for any nation to fail to take part in such an extraordinary international effort to end the suffering of people of all nations.

Often, I agree with the policies of my government, as I agreed with the President's decision to join these negotiations. Sometimes, we disagree.

That is why in the Senate ... I have sponsored legislation to ban anti-personnel mines. More than three-fifths of the members of the Senate have already said they will vote for it. But when the White House announced that it would come to Oslo, I said I would withhold action on this legislation during the negotiations.

I want to see the United States support this process wholeheartedly. I want it to show the kind of leadership that is expected of the world's leading democracy. The United States was a founder of the League of Nations, and the United Nations. We have been a leading force in every significant humanitarian law treaty and arms control treaty in history. Leadership by definition means being willing to take risks.

Frankly, it is inconceivable to me that the United States, the world's only military superpower, the world's oldest democracy, the country whose President stood before the U.N. General Assembly and called for a landmine ban "as soon as possible," would not sign the Ottawa treaty. It cries out for the moral leadership of the United States.

In the final analysis, this treaty must do nothing less than stigmatize these weapons ... So let there be no mistake. I will not accept--indeed I will actively oppose--the efforts of any government to diminish or hold back the tide of history that is unfolding here. I also want a treaty that, if at all possible, the United States will sign and ratify.

There are concerns that have been expressed by my government and by some others. One can agree or disagree with those concerns, but anyone who doubts that they are put forward sincerely is mistaken. I say this as one who has differed with my own government. While there are real differences on how to solve the problem, I do believe that we all want to solve it; that needs to be recognized (Leahy, 1997a).

### **The Five "Red Lines" at Oslo**

The US delegation arrived at the Oslo Conference negotiations seeking five improvements to the treaty that if accepted, would have allowed the US to sign the Ottawa Convention. These five items were called "red lines," in reference to the initial "all or nothing"

nature of not being able to compromise on them due to their underlying US security concerns (Newsom, 2005). The “red lines” were: an improved verification regime; a Korean Peninsula exception; a revised withdrawal clause; an extended transition period; and an exemption for US “mixed-mine” systems. Submitted below, for the purpose of analysis, are explicit details and explanations of each of the treaty improvements sought by the US negotiators at Oslo, as offered to reporters on 17 Sep 1997, by Mr. Robert Bell, Special Assistant to the President and Senior Director for Defense Policy and Arms Control with the National Security Council:

First was verification. We said that we needed to get improvements in the text to have a better verification regime in this treaty. After all, it's a treaty that will require a two-thirds vote of approval from a very conservative United States Senate on arms control matters. And, in fact, we succeeded. The treaty that was negotiated in Oslo does have an improved verification regime, including much more detailed information on data exchanges and fact finding teams that could go verify compliance. So that was a success story.

Second, we sought in our original proposal a specific exemption to deal with Korea; an exemption for which there would have been no time limit in the treaty, per se. And in the counteroffer that we made, the package close-out proposal over the last weekend, we made a major change in that position. We said that we could accept a nine-year deadline for solving the problem in Korea.

Third is the issue of the right of withdrawal from the treaty, and I think there's been a lot of confusion on that point. The Ottawa treaty will have a withdrawal clause. That had been agreed and we supported it. A state can serve six months notice under this treaty and withdrawal for any reason -- that's there. But there was another provision which we found exceedingly odd. It was a paragraph that said, however, you may not withdraw if you're involved in a conflict. Now, it seemed to us, that that's precisely when you might need it most.

The fourth issue was transition period. And it's important to remember why we felt we needed a transition period. Point one is you can't turn a supertanker on a dime. We have been going in a certain direction with our defense posture for a long time -- with great success, I might add, as demonstrated in the Gulf War. And we rely on landmines; at least have up to now. And so to do something different, we needed to field alternatives to get a comparable military capability. And our best estimate was that that meant about nine years (Bell, 1997).



The last “red line” in the US’s negotiation package of improvements, one which seemed to draw the most negative reactions from Conference participants, concerned the current definition of an anti-personnel landmine in the treaty that would in essence end up banning the US’s principal anti-tank mine. As Mr. Bell explained:

It's important to realize that when the states got to Oslo they were not starting with a blank slate. They had been working on this treaty for almost a year, certainly the last six months in earnest. And our European allies had already gotten into the treaty text an exemption -- there has been a lot of talk about U.S. exemptions -- there was an exemption in the treaty when we got to Oslo, an exemption for explosive devices that are designed to kill or injure people who try to disturb or remove an antitank mine.

Those of you who are military war-fighting experts here know that an antitank mine by itself is extremely vulnerable because someone can run up, pick it up and run away with it. It takes thousands of pounds of pressure to detonate it, or a large magnetic force. So all countries in the world have devices that are designed to kill or injure soldiers who are trying to remove or blow up the mine. And the way our European allies do it is to attach booby traps next to, in, or under their antitank mines. Then if the person disturbs it, they die ... because the antitank mines goes off. And that gives them pause. But since you can get right on top of it, you could use a long pole, disturb it, blow it up -- now you have a hole that a tank can come through and you've defeated the purpose of the minefield barrier.

Our antitank mines are different. There's a reason that they're different -- that's because we are better at it. There's a reason that we have the preeminent force in the world with the best technology. We figured out through our own military history that you don't want the infantryman to get right on top of the mine, so we put these same little kinds of explosive devices that are designed to kill or injure someone who's going to get the mine -- the antitank mine, near the antitank mine with some trip wires so they can't get close enough to disturb it. And if they try to get close, they get blown up.

Now, the treaty exemption that we found on the table when we got to Oslo did not extend quite that far to capture the engineering design of our systems. And we proposed two words, two simple words added to that exemption. The words were "or near," so that a device placed near the antitank mine to protect it was exempted in the same way that the devices for our allies are being exempted, would fix that problem. And, unfortunately, as the President said, the conference wouldn't agree. And he could not, as he emphasized, allow our principal antitank munitions to be stripped from our inventory (Bell, 1997).

While it was the US's initial inability to compromise on these "red lines" that brought on the consternation of Conference participants in the first place, Mr. Bell recalled to reporters on 17 Sep 1997 that:

In each case, in each of these five instances, we responded with flexibility. And in each case, we considered many alternative formulations, particularly in the last two or three days of the negotiations. We never said, "This wording is it, take it or leave it." It was a very dynamic negotiation through and past the 11th hour (Bell, 1997).

Eventually, the original five "red lines" dropped down to only two: the Korean Peninsula exception and a seven-year transition period, but it was not enough to reach an agreement at Oslo (Newsom, 2005).

### **The US Hits the Oslo Wall**

As Ambassador McNamara, upon his return from the Brussels Conference, had tried to warn his US government cohorts, the diplomatic environment of the Ottawa Process was much different than the US was traditionally accustomed to dealing with, especially in the area of arms control. The ICBL campaigners produced daily banners and handouts with slogans announcing the current progress or obstacles that were taking place in the negotiations. Much to the ire of the US delegation, the usually derogatory slogans were based on their own negotiation efforts. As described by key ICBL coordinators, "the majority of the slogans featured US 'initiatives' to destroy the integrity of a true ban treaty" (Williams and Goose, 1998: 44). In fact, according to the same ICBL coordinators, "the campaign produced fact sheets and newsletters, held briefings, and lobbied delegates to reject all of the US demands," which they held would "gut the treaty and render it largely meaningless" (Williams and Goose, 1998: 44). For example, when the US attempted to negotiate for a revised definition to include their "mixed-mine" systems, the ICBL

campaigners fashioned the slogan, “When is an AP mine not an AP mine?—When it’s American” (Williams and Goose, 1998: 44).

But not to be deterred, the US delegation continued to negotiate “in good faith” for an agreement in which the US could sign in December. As the negotiations were described by Mr. Robert Bell, the President’s Special Assistant and his Senior Director for Defense Policy and Arms Control in the National Security Council:

Today [5 Sep 1997], in Oslo, the United States is engaged with over one-hundred other states in intense negotiations aimed at producing by December a treaty that would ban, among signatory states, the production, stockpiling, transfer and use of anti-personnel landmines. As Canadian Foreign Minister Axworthy predicted last month when he welcomed the United States' decision to join the Ottawa Process, these are proving to be tough negotiations. But we, like the Foreign Minister, believe it is better to have hard negotiations with the United States at the table than easy negotiations among a smaller universe of states that does not include the United States.

The United States is negotiating in Oslo in good faith ... We continue to hope that the core security concerns that underlie [our] proposals will be satisfactorily addressed through treaty provisions adopted by the conference before it ends on September 19th and that we will, therefore, be able to sign the Ottawa treaty in December (Bell, 1997a).

But, however sincere the US delegation believed their efforts to be, others, to include US government officials, felt differently. In his statement to the Oslo Conference three days later, Senator Leahy expressed concerns about the negotiation efforts of the US delegation:

Over the past two days I have met with the delegates of several governments, as well as with representatives of nongovernmental organizations.

It is clear to me, and it comes as no surprise, that there is virtually no support for any exceptions to the Austrian Draft. Those who already have invested so much time and effort in this process are committed to a treaty that does nothing less than ban anti-personnel landmines.

It is also clear that this is not the typical negotiation, where at the eleventh hour a deal is cut behind closed doors. That is not going to happen, nor should it.

Unfortunately, the United States came here with demands that had no chance of being accepted. If the United States wants to be part of this treaty, as I believe it should, our

administration's chief policymakers need to go back to the drawing board -- right now, today. Otherwise, there is no way the United States is going to be a treaty signatory in Ottawa in December.

The negotiations end next week. Our negotiators, led by Eric Newsom, for whom I have the greatest respect, need different instructions and they need them immediately (Leahy, 1997a).

Others believed that the US delegation's major disadvantage in the negotiations was the fact that they arrived at the end of the Ottawa Process. One US State Department official, who worked in the Bureau of Political-Military Affairs at the time, responded that "had we gotten interagency agreement to participate in the negotiations in the beginning of '97, you know, February or March and Brussels and Vienna, when they [the Ottawa Process participants] had those meetings, then we could have had some effect; but because we missed that, you know, by the time Oslo rolls around, everyone just had a very hard-line (Davis, 2005).

In response to the US negotiation tactics at Oslo, Jody Williams, the key ICBL spokesperson at the Conference, declared on the ICBL webpage, *Ban Mines Now!*, which updated pro-ban campaign followers daily, and sometimes hourly, during the Oslo Conference negotiations, that "the ICBL strenuously objects to these [US] proposed changes which would gut the treaty, and we believe a large majority of the governments at the negotiations will also object." Although she acknowledged that "negotiations involve give and take," Williams clearly articulated the ICBL position that the campaign advocates had "fully embraced the Ottawa Process in the firm belief that the fundamentals of this treaty are non-negotiable" (Williams, 1997).

Not able to conclude a negotiated agreement to ban anti-personnel landmines that supported both US humanitarian concerns and national security interests, US President Clinton

announced on 17 Sep 1997, his decision not to sign the Ottawa Convention and therefore officially withdrew from the negotiations at the Oslo Conference.

### **The Oslo Conference Aftermath**

In describing the outcome of the Oslo Conference negotiations and specifically the ban treaty that the Ottawa Process had produced, which was officially titled, the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*, and also referred to as the *Ottawa Convention* (Appendix R), Ms. Jody Williams, ICBL coordinator, declared:

The Oslo negotiations gave the world a treaty banning antipersonnel landmines which is remarkably free of loopholes and exceptions. It is a treaty which bans the use, production, trade and stockpiling of antipersonnel landmines. It is a treaty which requires states to destroy their stockpiles within four years of its entering into force. It is a treaty which requires mine clearance within ten years. It calls upon states to increase assistance for mine clearance and for victim assistance.

It is not a perfect treaty -- the [ICBL] has concerns about the provision allowing for anti-handling devices on anti-vehicle mines; we are concerned about mines kept for training purposes; we would like to see the treaty directly apply to non-state actors and we would like stronger language regarding victim assistance.

But, given the close cooperation with governments which resulted in the treaty itself, we are certain that these issues can be addressed through the annual meetings and review conferences provided for in the treaty (Williams, 1997c).

Notwithstanding the optimistic remarks of the ICBL coordinator, the United States and pro-ban advocates failed to reach an agreement during the Oslo negotiations.

President Clinton made it very clear in the following remarks how he felt about the results of the Oslo Conference negotiations and the international expectations of the US to sign the Ottawa Convention:

...the people who were at Oslo decided they would not try to accommodate us for whatever reason. That was their legitimate reason. A number of world leaders said they thought I was right, but that they couldn't get it done. Now, I'm not going to fight over

that. I think that's silly. We should look at the evidence. What is your record on landmines? Which nation has destroyed the most landmines? Which nation is doing the most to promote demining? The answer to that is the United States.

And I support what Canada has done. And I think it is a great mistake to make this whole story about whether we will sign on to this or not. That was a decision made by people who decided that our antitank weapons were not entitled to be protected. My first responsibility, since I may have to send our troops into conflict situations on behalf of a lot of the nations that have signed on to this treaty, is to make sure that if I do that I can protect them. Now, that is my position.

So I regret the fact that our antitank systems are the only ones in the world that weren't covered by this. They have their position on that. They have their reasons that because of where they were in the Oslo process they couldn't change. That's fine. It's a great mistake to make that the story.

Canada has done a magnificent thing getting all these countries involved in this, continuing to raise the issue. We have done a great thing by destroying the weapons and by leading the world's de-mining effort. And we should work together as closely as we can and not let the differences over the wording of this treaty and whether we sign on the bottom line at some time or another obscure the fact that we are moving to rid the world of these antipersonnel weapons. It is a big deal, and it should be seen as a positive deal that should not be obscured by how this whole business about our participation in the treaty developed (Clinton, 1997c: 1649-1651).

Senator Leahy was quick to express his reaction to the successful conclusion of the Oslo negotiations and to President Clinton's announced decision not to sign the Ottawa Convention.

As Leahy stated in his official announcement:

Fifteen months ago, President Clinton appealed to all nations "for the swift negotiation of a worldwide ban on anti-personnel landmines." He said, "The United States will lead a global effort to eliminate these terrible weapons and to stop the enormous loss of human life." Those were inspiring words. The President's comments again today show a commitment on this that I know is real.

In the 15 months since the President's appeal we have seen something unprecedented in history. Led by Canada -- whose officials have tirelessly circled the globe to build support for a ban -- and by a broad coalition of nongovernmental organizations, 89 nations -- including many producers, users and exporters of anti-personnel mines and 15 members of NATO -- have pledged to sign a treaty banning the weapons in Ottawa this December.

This is an extraordinary achievement, and those who worked so long and hard, and who resisted efforts by some to weaken the treaty, deserve enormous credit. This achievement also becomes part of the legacy of the Princess of Wales. She showed the world the faces of the innocent victims of landmines.

It is deeply disappointing that the United States will not be among the signers of the treaty. The Administration seriously underestimated the worldwide commitment for a ban. For months, the Administration wasted valuable time by pursuing negotiations in the U.N. Conference on Disarmament, even when it was clear that avenue was blocked. Our officials said we would only give up our mines if "all nations" did, knowing that, like the chemical weapons treaty, there is no chance of that happening for decades. And, when they finally decided to participate in the Oslo negotiations, they went with demands that had no chance of being accepted and with little flexibility to negotiate.

In the last 48 hours, there seemed to be a genuine attempt to break the impasse. Unfortunately, this proved to be an issue that could not be solved by the kind of frenzied all-night, 11th-hour scramble that sometimes has been raised to an art form in this administration. There simply are too many countries involved, and the issues are too serious for that.

I am convinced that President Clinton wants to see these weapons banned. But to sign the treaty would have required making a difficult decision which would have been unpopular with the Pentagon. The Pentagon is, understandably, deeply reluctant to give up a weapon that has some utility, even if doing so would help pressure others to end the suffering of innocent people. They make the same argument today as in the 1920s when they opposed a ban on poison gas, calling it "one of the most effective weapons ever known." It is the job of our civilian leaders to act when there is overriding humanitarian concerns.

It was our hope that the President would seize this moment and join with other nations to do what the Congress and the American people want, on behalf of people everywhere. It was an opportunity that should not have been missed. U.S. policy on landmines has largely arisen from Congress, not the White House, and we will move forward with our legislation to ban anti-personnel landmines.

The Ottawa treaty will stigmatize a category of weapon that General Tecumseh Sherman called "a violation of civilized warfare" over a century ago. It will set a moral standard for the 21st Century that even those nations who do not sign will ignore at their peril. And it will be a tribute to those nations who recognized the urgency that this humanitarian crisis demands. The Ottawa treaty is a fitting way to end the bloodiest century in history. It is our gift to the next century (Leahy, 1997c).

Senator Jesse Helms (R-NC), Chairman of the US Senate Foreign Relations Committee,

offered his full support for President Clinton's "courageous act" of resistance to the Oslo pro-ban

negotiators. In a statement released on 18 Sep, the Republican Chairman lauded the US President for making what he believed was “the right decision, even though it may be misunderstood in some quarters” (Helms, 1997). He went on to defend the US’s decision to maintain the right to use self-deactivating/self-destructing landmines and offered his opinion of the Ottawa Convention: “any treaty than bans ‘smart’ mines is, in my view, a ‘dumb’ treaty (Helms, 1997). It appeared that, in spite of the Congressional successes in the US during the previous five years, the “official” US position towards solutions to ban landmines, at least in respect to the outcomes of the Oslo negotiations, was stilled strongly influenced by its own “security” interests.

ICBL leadership was not too concerned by President Clinton’s decision to withdraw from the Oslo negotiations. In response to the effect of the US government’s decision to not sign the Ottawa Convention on the ban campaign and the Ottawa Process, Ms. Jodi Williams adamantly expressed her reply to any naysayer:

Regarding the question of the importance of the United States, at this stage of the game, I find it difficult to understand how anyone could call this a hollow treaty without the United States. Of those 120 nations we anticipate signing; it's all of NATO except the U.S. and Turkey. It's all of the European Union except Finland. It's Japan, Australia, New Zealand, much of Africa, all of the western hemisphere except the United States and Cuba. We're not talking about just a few marginal governments signing this treaty. Significant governments, significant U.S. allies around the world, are signing this treaty.

It is our view that the United States stands outside the tide of history. It is our view that the U.S. is attempting to show leadership by taking up the de-mining side to deflect the fact that it is not part of the process. But at this stage of the game, when we also have Russia's government stating it is going to sign this convention—maybe not in December, but it is going to come on board this convention—what will the United States bring? Not much (Williams, 1997b:1050-55).

During a joint news conference with Canadian Prime Minister Jean Chretien held at 10 a.m. in the East Room at the Pan Pacific Hotel in Vancouver, British Columbia, on 23 Nov 1997,



US President Clinton reiterated his reasons for, and confidence in, the fact that he made the appropriate decision for US interests in choosing not to sign the Ottawa Convention. As he told reporters:

Now, because of the unique circumstances of our program, we may not be able to sign on. We don't think we can sign on to the agreement as it's presently written because of our responsibilities in Korea and because our antitank defenses are not covered by the words--the plain words of the treaty as other countries' antitank defenses are. Everybody recognizes they're legitimate. And I hope we can work that out ... This is a question of how that treaty was worded and the unwillingness of some people to entertain any change in the wording of it.

And when they were meeting in Oslo, we implored the people there to give us the exceptions we needed, recognizing that in the Korean Peninsula we've never had indiscriminate use of landmines that have had--put civilians, children at risk, and that we have the unusual situation of having a huge North Korean army there just a few miles from Seoul and no way to stop the movement there without leaving the minefields there, and that we have a situation with our antitank weapons which we have tested over and over again to prove that they don't amount to antipersonnel weapons that can be left in the field and cause danger to innocent civilians (Clinton, 1997c: 1647-48).

### **US Mine Action Initiatives**

Despite the breakdown in the Oslo Conference negotiations and failure of the US and pro-ban advocates to reach an agreement in terms of the final outcome, the Clinton administration continued to maintain US efforts towards solutions to the “humanitarian” aspects of the global landmine crisis. On 31 Oct 1997, Secretary of State Madeline Albright and Secretary of Defense William Cohen officially announced President Clinton's "De-mining 2010" program. The "De-mining 2010" program established, among other initiatives, a Special Representative of the President and Secretary of State for Global Humanitarian De-mining. The job of the Special Representative, according to Secretary Albright, was to "work in cooperation with other nations and organizations to coordinate and accelerate international de-mining efforts, and to increase by roughly a factor of five--to \$1 billion a year--the public and private resources

devoted worldwide to identifying and clearing mines, promoting public awareness about mines, and improving the means of detecting and removing mines.” Secretary of Defense Cohen stressed that the US had "been the leader in being part of the solution. What this initiative is is to ask other countries to join with us in becoming part of the solution, as well" (Albright and Cohen, 1997).

To that end, Secretary Albright announced the appointed of Assistant Secretary of State Karl F. Inderfurth as the new US Special Representative of the President and stated that Ambassador Inderfurth would be attending the *Ottawa Convention* signing ceremony sponsored by Canada in December to ask "those in attendance ... to join us in pushing at the Conference on Disarmament for an immediate, comprehensive and global ban on exports and transfers of anti-personnel land mines” (Albright and Cohen, 1997). To distinguish his efforts in future US de-mining initiatives from other de-mining programs within the State Department, Ambassador Inderfurth offered that:

With respect to my part of this, the issue of what we will do for alternatives, I'll be focusing on research and development for the efforts to de-mine and to clear the mine fields. Right now, as Secretary [Cohen] said, a stick is the best method for still going after this. We need to do better. There are things like airborne detection systems that are being looked at, chemical neutralizing systems that could be addressed to this problem. More money, as the President stated last month, will be put into R&D for de-mining activities. That is what I'm going to be focusing my attention on (Inderfurth, 1997a).

In addition to the importance it place on mine clearance programs and activities, the US government also championed other areas of mine action initiatives, such as mine risk education. Mine risk education is considered a major component of most de-mining programs, although it is not as glamorous and so doesn't get as much press or attention (Kidd, 2005). The US began a unique initiative in the area of mine risk education which sought the cooperation of the private

sector. As explained by Ambassador Inderfurth during a State Department press briefing on US landmine policy:

Can I just do one plug for something? I think we have copies of this comic book. If some of you who may not be quite as involved in this issue as I have been, if you have not seen it, this is a comic book done by Warner Brothers-DC Comics. It's a mine-awareness comic book that Secretary Albright was very involved with and the First Lady [Clinton] that was announced several months ago. It's for Bosnia, for the children of Bosnia.

Of course, it's in the languages of the children, not just in English. The purpose of this was to pull together mine-awareness information for the children of Bosnia. DC Comics in New York did the creative work. The Department of Defense added mine-awareness experts that they have, including putting up money for the producing and distribution of this. UNICEF was involved in trying to get this to the children of Bosnia. We did an initial run of half a million. That ran out very quickly. We did another half a million. It's probably the most successful mine-awareness booklet prepared. We hope to have this same approach done in other parts of the world and other languages.

So we are going to try to, as I said, harness the private sector in this effort. This is not going to just be governments. It's not going to be just working with the NGOs, but we are going to get the private sector to help us in this effort (Inderfurth, 1997a).

### **The ICBL Wins the Nobel Peace Prize**

The Norwegian Nobel Committee announced on 10 October 1997 that it would award the Nobel Peace Prize to the International Campaign to Ban Landmines and the ICBL's chief coordinator, Jody Williams, in recognition of "their work for the banning and clearing of anti-personnel mines" (NNC, 1997). According to the statement released by the Nobel Committee, the co-recipients of the 1997 award had "started a process which in the space of a few years changed a ban on anti-personnel mines from a vision to a feasible reality" and it was expressed by the Committee that it hoped "the Ottawa Process would win even wider support; as a model for similar processes in the future, it could prove of decisive importance to the international effort for disarmament and peace" (NNC, 1997). Shortly after the announcement of the award, Ms. Williams acknowledged to members of the Canadian Committee on Foreign Affairs and

International Trade that in “awarding of the Peace Prize to the campaign this year, the Nobel committee recognized that it's a coalition effort of governments, non-governmental organizations, UN agencies, [and] the International Committee of the Red Cross, which have worked together in a uniquely co-operative effort to address a humanitarian crisis in a timely fashion” (Williams, 1997b). She also concurred with the Nobel Committee’s hope that the Ottawa Process would be a model for future humanitarian action.

Most of the accolades received by the ICBL and Ms. Williams came from typical official supporters, such as, the Canadian, Japanese, South African, and British Foreign Ministers, as well as, from the UN Secretary-General, the White House, and the US Secretary of Defense. Aside from the welcomed international acclaim and recognition to the Ottawa Process that came from the Peace Prize, some within the ICBL thought that it was inappropriate to single out one individual from the ICBL and felt it would have been more appropriate to give the co-recipient award to someone like Canadian Foreign Minister Axworthy or US Senator Leahy. Also, at that time, others within the key NGOs of the ICBL believed that the cohesiveness of the campaign leadership had begun to unravel after the Nobel Peace Prize was awarded and that the once consolidated movement took on more individualistic projects and themes.

### **The Signing Ceremony**

The Ottawa Process had come full circle since Canadian Foreign Minister Lloyd Axworthy challenged the international community to negotiate a treaty for a total ban on landmines 14 months previously at the *International Strategy Conference: Towards a Global Ban on Anti-personnel Mines*. As promised, Minister Axworthy sponsored a signing ceremony,<sup>60</sup>

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<sup>60</sup> The signing ceremony was part of a conference entitled, *Mines Action Forum: A Program for Mine Action*. After the ceremony, States Parties to the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* were joined by others in considering the elements of a global

in Ottawa, Canada, from 2 - 4 Dec 1997, for States to sign the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*, also known as the Ottawa Convention.

Jody Williams, the foremost ICBL representative, who had been with the global campaign to ban landmines since its birth over 5 years earlier, noted that many ICBL and pro-ban supporters believed that the efforts of the Ottawa Process could be considered a “success” if, at a minimum, the same number of states that had participated in the recent Oslo Conference would show up to initially sign the treaty (Williams and Goose, 1998). By the end of the three day conference, 122 states had signed the Ottawa Convention.<sup>61</sup> The international turnout at the forum was noteworthy in itself. Along with the United States, other significant States that had chosen not to sign the treaty, such as Russia and China, attended the conference as observers.<sup>62</sup> Offered here for purposes of analysis are excerpts from selected key statements presented to the forum attendees:

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action plan to ensure progress on the issue of anti-personnel landmines during the period leading up to entry into force of the Ottawa Convention. In plenary sessions for the Ministerial Conference and Mine Action Forum, numerous initiatives were circulated or announced.

<sup>61</sup> These included Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Benin, Bolivia, Bosnia Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, Colombia, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, El Salvador, Ethiopia, Fiji, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, // Haiti, Honduras, Hungary, Iceland, Indonesia, Ireland, Italy, Jamaica, Japan, Lesotho, Kenya, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Monaco, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Niue, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Moldova, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Samoa, San Marino, Senegal, Seychelles, Slovak Republic, // Slovenia, Solomon Islands, South Africa, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, United Republic of Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Kingdom, Uruguay, Vanuatu, Venezuela, Yemen, Zambia, Zimbabwe.

<sup>62</sup> Not all countries were invited to the Canadian-sponsored Mine Action Forum; according to one Canadian official, “We did not invite a number of countries. For instance, Taiwan was not invited for obvious reasons. North Korea was not invited because we do not have diplomatic relations with that country. In Iraq, there is a ban on the ruling party traveling, so they would not be allowed to come. The new government of Sierra Leone was installed after a coup, and they are not recognized yet. Somalia does not have a recognized government. There is one other that slips my mind. We have tried to be as inclusive as possible” (Walsh, 1997).

**Canada** - Foreign Minister Lloyd Axworthy to the Opening Session of the Mine Action Forum (2 Dec 1997): When I issued the challenge, in this room, just over a year ago to return to Ottawa to sign a treaty banning landmines, I confess to being unsure of the results, but thought that it was a risk worth taking. I thought there was a real desire and real possibility that a treaty could be negotiated, but frankly I did not dare hope for such an overwhelming response. But the risk was worth taking - the results are here for all to see. Over 100 States will sign the treaty tomorrow - more opening signatures than almost any other treaty ever negotiated. And they will be signing a strong treaty, with no exceptions or loopholes. This treaty is a testament to the political will and determination that has inspired this process from the very beginning ...

But in the past few years, international organizations and meetings have opened up to a range of non-State actors. State sovereignty has become more diffuse and no longer the sole domain of governments. Civil society has demanded and earned a place at the table. Democracies are in the ascendancy. Globalization and a revolution in information technology have resulted in a 'global commons,' in which ideas move across borders at unprecedented rates. People power has moved onto the international stage ...

Let me be clear: I am not advocating such partnerships as some sort of 'feel good' diplomacy. I am advocating them because they work. It is 'good' diplomacy. The landmines campaign worked because it brought together not only mine-producing and mine-affected States, but also humanitarian and non-governmental organizations active in the field and landmine survivors. It worked because new synergies were created. This was not simply a question of consulting NGOs or seeking their views. We have moved well beyond that. What I am talking about is a full working partnership between governments and civil groups, both of which bring their comparative advantages and particular capacities to the process (Axworthy, 1997a).

**International Campaign to Ban Landmines** – Statement by Robert “Bobby” O. Muller, President, Vietnam Veterans of America Foundation and co-founder of the ICBL (3 Dec 1997): As the co-founder and coordinator of the International Campaign to Ban Landmines, Vietnam Veterans of America Foundation extends its congratulations to all of those nations gathered in Ottawa to sign the treaty banning antipersonnel landmines. This is a victory for the signers of this treaty, for the international ban movement, and for U.S. Senator Patrick Leahy and Canadian Foreign Minister Lloyd Axworthy, who deserve our gratitude for helping to lead this worldwide effort. This is also a victory for hundreds of thousands of landmine victims, many of whom worked for this treaty. It is to these victims and their loved ones, who continue to live with the effects of this terrible weapon, that this event should be dedicated. The signing of the Ottawa Treaty does not mark the end of our efforts. We must continue in our efforts to ensure the treaty's ratification, its universalization, while we continue our commitment to de-mining and to increasing victim's assistance.

The Clinton Administration's recent announcement that it would raise additional funds for de-mining is welcome, but it is no substitute for joining the international ban.

President Clinton himself must show the way. In a recent press conference with Canadian Prime Minister Chretien, President Clinton noted that he was “the first world leader at the United Nations to call for a total ban on landmine production and deployment.” The world heeded his call and, in three years, has taken the final step in enacting a global ban on antipersonnel weapons.

But President Clinton is not here today, and the United States is not signing this treaty -- which remains the one sure way to begin the long process of ending the world’s use of this indiscriminate and devastating weapon. The Ottawa Treaty is a triumph for the international community. It now sets the moral standard for the world; but it is a standard to which the United States does not adhere (Muller, 1997).

**International Campaign to Ban Landmines** - Jody Williams, ICBL Coordinator (3 Dec 1997): I have done an awful lot of interviews in the last few weeks, and I am always asked if we expected this. Certainly not! Who would have expected that within such a short time the governments of the world would have responded to a band of NGOs calling for a ban on the weapon in widespread use, a weapon that most military don't think about as different from all the other weapons they use - it's just another one in the arsenal.

It wasn't until the voice of civil society was raised to such a high degree that governments began to listen, that change began to move the world, with lightning and unexpected speed ... had governments not begun to say the scary words 'We need to ban the weapon', it would not have happened. And gradually, they did take steps, and gradually the base was built to make the governments of the world believe that they actually could step outside of the normal diplomatic channels and do something different.

We have already heard many times praise for the leadership of Canada. It is very well deserved. It is leadership, however, built on the stepping stone of many - as I said, Belgium, Norway and Austria ...

Without all of these people working together in the firm belief that they could change the world, Foreign Minister Axworthy would not have been able to make the challenge, and even then it was a scary challenge. We have talked a lot about how horrified the diplomatic community was with that challenge ...

I have also been asked in the last few days in the interviews, 'Ah, everybody is here, they're signing, everybody is going to feel good, and they're all going to walk away and think the job is done'.

I am also pleased to say that the leadership continues. Perhaps if this were just a celebratory ceremony of signing and everybody got to shake hands and pat each other on the back and have good photo opportunities to take home, we could be a little concerned. But I think the cynics of the world, who did not believe the Ottawa process would bear this fruit, should also look at the other part of what is happening here in Ottawa.

We are planning for the future. We will come out of this conference with a clear, defined plan of action to carry this treaty forth to reality. It will not fail. Canada has committed to a continued leadership with Norway, South Africa, the governments who really wanted to see a ban happen, are committed to making the treaty have teeth, are committed to removing the mines from the world and helping the victims of the world. We will not fail.

That leadership has helped the rest of the world come on-board. I was very pleased this morning to hear the Prime Minister mention that 125 governments are prepared to sign this treaty. I remember a year ago after the challenge, when we were all exhausted and a handful of us went to dinner at a lovely Italian restaurant, with one of my personal heroes, Bob Lawson, with the Canadian Government, the corporate ally that we always mention; our key contact in government.

We went to dinner with Bob and we did a little betting, wondering how many governments would actually sign this treaty in a year, because the Prime Minister had said, we'll sign if it's even a handful. We certainly didn't want to see a handful, but I thought maybe 36 - the highest number was maybe 75. But here we have 125 governments recognizing that the tide of history has changed, recognizing that together we are a super power. It's a new definition of super power: It is not one; it is everybody. You are all part of being a super power!

The post-Cold War world is different, and we have made it different, and we should be proud we are a super power. Thank you very much for being here (Williams, 1997c).

**United Nations** - Secretary-General Kofi Annan (3 Dec 1997): The occasion which brings us together here will mark a milestone. History will remember that, on 3 December 1997, more than 100 governments solemnly pledged to refrain from any further production, sale or use of these hideous instruments of death otherwise known as landmines.

You can take pride in being among the first to sign this important Convention ... The global alliance that created this Convention is an alliance made up of individuals and governments, of grass-roots movements and global humanitarian organizations.

It is an alliance that has shamed the world and enlightened it, unmasked its excuses and revealed its potential. It has held up a mirror to us all, revealing the wickedness of human folly and the wisdom of human courage ... As Secretary-General of the United Nations, I am proud and privileged to assume the duties of depositary of the Convention and pledge to carry out this responsibility with passion and care.

Your success is a welcome reminder that one does not have to be a global superpower to affect the future of international peace and security. The Ottawa Convention is a landmark step in the history of disarmament. About this, there can be no doubt. I am confident that it will provide the final impetus for a universal ban, encompassing all mine-producing and mine-affected countries (Annan, 1997e).



**United States** - Ambassador Karl F. Inderfurth, Special Representative to the President and Secretary of State for Global Humanitarian Demining (4 Dec 1997): At the outset of my remarks I want to repeat the congratulations that President Clinton expressed last week in Vancouver when he said: 'Canada has done a remarkable and an important thing in trying to get the countries of the world to agree not to produce, deploy or sell landmines'.

As the President noted, Canada's achievement in bringing 125 countries here to sign this treaty reflects Prime Minister Chrétien's very hard work 'to create the biggest possible tent.' Credit is also due to the international Campaign to Ban Landmines and to Jody Williams. ... Finally, I would of course mention Senator Patrick Leahy, whom the President has praised as 'a genuine worldwide leader in this effort.'

As you know, Mr. Chairman, the United States did not sign this treaty. That is because of President Clinton's concern for the safety and security of our men and women in uniform and the unique responsibilities the United States has around the world for the security of friends and allies, not for lack of dedication to our common goal of eliminating anti-personnel landmines from the face of the earth. President Clinton was the first world leader to call for the elimination of anti-personnel landmines in his General Assembly address of 1994, and he has acted consistently on that commitment.

Since making that appeal, President Clinton has made the long-standing US moratorium on transfers and exports permanent, a ban we intend to seek to universalize in negotiations at the Conference on Disarmament in Geneva. We have already destroyed over 1.5 million long-lived anti-personnel landmines and are on course to destroying another 1.5 million by 1999.

Mr. Chairman, as you are aware, there are two changes we sought in Oslo that would have allowed us to sign but unfortunately were not accepted. The first was an adequate transition period. The second was protection of our mixed systems containing anti-tank mines protected by anti-personnel submunitions.

I want to reiterate the policy of the President on anti-personnel landmines which he announced on 17 September. The President has directed the Department of Defense to end the use of all anti-personnel landmines outside Korea by 2003, including those that self-destruct. For Korea, the objective is to have alternatives to anti-personnel landmines ready by 2006. The Department of Defense is now embarked on a program to develop new systems that will permit meeting those deadlines.

Assuming we do in fact find alternatives by 2006 (which is the transition period we proposed in Oslo), we would still be faced with the fact that the treaty as now written bans our mixed munitions -- our anti-tank mines. The anti-personnel submunitions in those systems quickly self-destruct so as to pose very little risk to non-combatants.

However, the treaty as now written bans our principal anti-tank systems, but not those of our allies.

We have not yet found a viable concept for replacing these systems with an alternative that is comparable in terms of military effectiveness, safety of use, and minimal risks for non-combatants, which is why we were unable at Oslo to agree to a date certain for ending their use under the treaty as now written.

If we succeed in identifying a comparable alternative for our mixed systems, it would put us in a position to sign the Ottawa Convention, as soon as we have also developed our alternatives for Korea.

Today, even as we are welcoming the signing of the Ottawa Convention, we are also turning our collective attention to what Foreign Minister Axworthy said is an even tougher challenge for the international community, clearing the world's landmines that threaten civilian populations ... our aim, working closely with others, is to help launch a concerted global campaign to end the humanitarian scourge of landmines once and for all.

We look forward to working with all countries, including those not in attendance here, along with all the international organizations, non-governmental organizations, the private sector, and others who are making critical contributions to our common goal - the goal of eliminating anti-personnel landmines from the face of the earth (Inderfurth, 1997b).

**United States** – Colonel G.K. Cunningham, Office of International Security and Peacekeeping Operations, Bureau of Political-Military Affairs (2 Dec 1997): ... my remarks come from a U.S. perspective, but are aimed at a wider international audience in an effort to gain consensus on a major point of U.S. demining policy.

Certainly, the U.S. has made significant contributions to humanitarian demining worldwide, but just as certainly, the U.S. is not the only participant in this effort ... Nongovernmental organizations deserve much of the credit for focusing world public attention on the plague of landmines left over from previous conflicts that continue to affect civilian populations. The U.S. is committed to promoting national and regional security, political stability, and economic development worldwide by reducing civilian landmine casualties through mine awareness, mine clearance training, and development of demining technology.

The U.S. humanitarian demining program is coordinated by the Interagency Working Group on Humanitarian Demining, bringing together multiple elements of the U.S. Government. Its intent is to establish indigenous, sustainable humanitarian demining capabilities that will continue after direct U.S. involvement is complete. The U.S. and the world at large can and should do more to rid the world of the plague of hidden killers. The world cannot afford the costs in economic stagnation and human suffering by

allowing the current state of affairs to continue for decades while the world is demined one limb at a time.

To respond to this global humanitarian catastrophe, the U.S. is calling for a global campaign, the "Demining 2010 Initiative," to eradicate all landmines which threaten civilian populations by the year 2010. This presidential initiative does not compete with but, rather, complements ongoing international efforts to assist landmine victims. The objective is to accelerate global humanitarian demining efforts and the goal is to increase roughly by a factor of five -- to \$1 billion a year -- the public and private resources devoted worldwide to identifying and clearing landmines posing threats to civilians by the year 2010.

We hope that you all will join us in attempting to rid the world of landmines that affect civilian populations by the year 2010 -- an achievable goal but not one that any nation can accomplish on its own. As President Clinton said in his announcement of September 17, 1997, "Every mine removed from the ground is another child potentially saved" (Cunningham, 1997).

**Organization of American States** – Cesar Gavira Trujillo, Secretary General of the OAS (2 Dec 1997): It is to [landmine] victims that we devote our efforts. We have come together here with a common purpose - on the part of governments, multilateral agencies, non-governmental organizations, and private foundations - to join in the final battle to banish these mines from the face of the earth ...

And as part of the colossal anti-mine effort in which we are all engaged, I would like to inform of what we are doing in the Western Hemisphere region and in the Organization of American States. In 1991 the countries of Central America first expressed their desire for the OAS to help them to de-activate and destroy the mines that had been buried during the preceding years of fratricide conflict in that region.

Since that time, mine clearance has been a steady concern of the OAS. In June, 1996 our General Assembly took a political decision to adopt the goals of ridding the Western Hemisphere of anti-personnel land mines, and converting it into a Mine-Free Zone.

The General Assembly called upon member states to declare and implement moratoria on the production, use, and transfer of all antipersonnel land mines in the Western Hemisphere. As a confidence- and security-building measure, it requested our Permanent Council to implement a complete and integrated register of antipersonnel land mines in the member states. The Register also contains plans for clearance of the remaining land mines.

For their part, the countries of Central America, under the aegis of the OAS, have set the year 2000 as the target for reaching that objective which, I am happy to say, these countries have reaffirmed just a few hours ago at this conference. I feel proud to say that the Organization of American States has been in front of the world curve in adopting this

type of concerted political decisions of the kind so concretely memorialized in the Ottawa Process (Trujillo, 1997).

**Vietnam** – Observer delegation representative: Viet Nam welcomes the efforts made by the Canadian Government and governments of other countries, the International Red Cross and Red Crescent Societies, the International Campaign to Ban Landmines and other NGOs in completing an international comprehensive treaty on the banning of anti-personnel landmines.

Viet Nam has not yet participated in the Convention because of her territorial defense reasons. Viet Nam does not export anti-personnel landmines. Being a war victim, including anti-personnel landmines, Viet Nam believes that other countries understand her position.

Planted anti-personnel landmines and other unexploded devices left over during the war and conflicts have inflicted considerable casualties to Vietnamese civilians. For years after the war, the Government of Viet Nam has concentrated great efforts in clearing anti-personnel landmines and unexploded devices left over in conflict areas to ensure safety of people.

Viet Nam appreciates international efforts and cooperation in de-mining and resolving anti-personnel landmine consequences and is ready to cooperate with and to receive any assistance in technology, equipment and finance to continue the process of de-mining and to assist landmine victims (Vietnam, 1997).

Under Article 15 of the *Ottawa Convention*, the treaty remained open for signature from 3 Dec 1997, until its entry into force, on 1 Mar 1999. By 21 Nov 2006, 155 countries had signed the Ottawa Convention. But, most notably, the 43 non-signatories still included the US, China, and Russia, as well as, India, and Pakistan. These non-signatory states represent the majority of the world population and are recognized major global powers, three of whom are Permanent members of the United Nations Security Council.

### Summary

This chapter presented diplomatic events and negotiation efforts of the US government and pro-ban advocates that occurred immediately prior to the opening of the *Diplomatic Conference on an International Total Ban on Anti-personnel Landmines*, in Oslo, Norway on 1

Sep 1997 to the Canadian-sponsored Ottawa Convention signing ceremony in Dec 1997. As was presented in the previous empirical chapters of this study, the parallel analysis of the overlapping negotiation efforts, arranged chronologically, provided the opportunity for examination of the participants' negotiation strategies and tactics in tandem. In this chapter, both groups of participants, the US and pro-ban supporters, were considered in their negotiation stage of the campaign.

For the US, while the decision to join the Ottawa Process was met with initial enthusiasm by many, others believed the US efforts were too little, too late, and as was evident at Oslo, the new international negotiations environment of the Ottawa Process was much more hostile to the delegation's attempt to negotiate than was expected by the US government. For the ICBL and pro-ban advocates, the Ottawa Process was able to negotiate a landmine ban agreement in which 122 states signed within 14 months of its conception. But, in reality, the fact that major powers, such as the US, Russia, and China, each large mine producers, were not on board and the non-signatory states of the Ottawa Convention represented over half the world's population, was a point to consider in how the Ottawa Process model might work in future situations, when the conditions may be different and the support of these participants is required.

## CHAPTER 8 CONCLUSION

### **Introduction**

The purpose of this study is to answer the question "why an agreement between the US and pro-ban advocates was not reached during the global campaign to ban landmines" when, in fact, both had a common interest—the protection of non-combatants. It is important, and significant, for future negotiators, whether they are NGOs or sovereign states, to understand why the negotiations of the Ottawa Process failed to garner the support of nearly 40 countries that represent over 55% of the world population, of which include three of the five Permanent members of the UN Security Council (Appendix S). A US State Department official recently noted, “the fact that the US and the Ottawa Convention’s drafters could not agree on terms in 1997 obscured the fact that we share a common commitment to end the harmful effects of landmines” (Bloomfield, 2004). This chapter describes limitations, strengths, and weaknesses of the study, as well as, findings relative to the negotiations of the global campaign to ban landmines. The conclusion of the chapter provides policy, strategy and tactical recommendations for future negotiations that could enhance the chances of agreement when common interests and issues are present.

### **Limitations**

A limitation of the study concerns travel and language constraints. Geographic location and language differences of the negotiation participants were diverse. The ICBL currently consists of over 1400 NGOs in 90 countries around the world, but was originally created by a core of six NGOs: Vietnam Veterans of America Foundation (VVAFA); Physicians for Human Rights (PHR); Human Rights Watch (HRW); Mines Advisory Group (MAG); Medico

International (MI-GE); and Handicap International (HI-FR). Travel limitations precluded obtaining data directly from MI-GE and HI-FR. Focus was directed instead on the overall material from the ICBL campaign in general. Also, because MAG's main headquarters is located in Manchester, England, they were not directly contacted. Instead, the study relies on informative informal discussions with several NGOs during this researcher's trip to Angola, Africa and a tour of a minefield there, as well as, demining and prosthetic manufacturing operations. The NGOs contacted were MAG, VVAF, HALO Trust, and the World Food Organization.

This study did not explore why participants had particular interests or issues, only that they did and these were instrumental in understanding their approaches during the negotiations towards the solution to the global landmine problem. A major premise of this dissertation is that a negotiated agreement was indeed possible between the US and pro-ban advocates towards solving the global landmine problem. Within the commonalities of interests and issues between the participants offered, the negotiation strategies and tactics implemented during the campaign played a significant role in the outcome of the campaign. The analysis framework offered, based on concepts from negotiation theory, explained the failure to reach an agreement between the US and pro-ban advocates during the global campaign to ban landmines as represented in the negotiated Ottawa Convention.

### **Strengths and Weaknesses**

Original *Ottawa Process* documentation, e.g., transcripts and conference agendas, from the Geneva International Center for Humanitarian De-Mining in Geneva, Switzerland and other specific governmental and ICBL resources were used as primary sources for this study. To augment the data collection and enhance analysis for this study, interviews and discussions were

accomplished with representatives from the Vietnam Veterans of America Foundation in Washington, DC and Angola, Africa; Mine Action Group humanitarian de-mining program managers and World Food Program personnel, Angola, Africa; Landmine Survivors Network; the US Department of Defense and the US Department of State's Office of Weapons Removal and Abatement; former United Nations *Convention on Conventional Weapons* and *Oslo Conference* negotiations delegation team members; former US Ambassador to Mozambique; and US Embassy personnel in Angola, Africa.

While the range of analysis of this study only spans a period of approximately 5 years (1992 – 1997), one limitation of this study was the time that had lapsed since the Ottawa Convention was first submitted for signature in December 1997. This time lapse was expected to be a factor in the quality of information remembered and recollected by negotiation participants of this study. To increase the reliability of anecdotal data and incomplete recollections, other primary sources, as defined and explained in the Methodology section of Chapter 1, were used to augment, enrich and strengthen the quality of the interview data.

### **Analytical Findings**

Applying negotiation theory as a framework for analysis, this study sought to explain “why an agreement between the US and pro-ban advocates was not reached during the international campaign to solve the global landmine problem.” Assuming that participants in fact wanted to reach an agreement on how to solve the landmine problem, which the preponderance of data verified, this study proposes that any agreement between the US and pro-ban advocates was “destined to derail” because the strategies and tactics that the participants chose to use or not use during the campaign negotiations hindered their efforts to reach a suitable resolution.



As noted in the *Introduction* chapter, 11 factors were offered as a framework to explain and answer the research question, as well as, guide the negotiation analysis of the study. These 11 factors included: (1) definition of problem or crisis must be clear and agreed upon; (2) antagonistic framing of the problem, such as *negotiable* and *non-negotiable* framing of interests, if combined, make it difficult to reach an agreement; (3) the use of contradictory experts hinders joint-fact finding efforts; (4) future working relationships should be considered vital to solving the landmine problem; (5) coalitions of *like-minded* States will marginalize *unlike-minded* States; (6) integrative bargaining strategies should be utilized by participants as much as possible; (7) incompatible and contentious strategies tend to hinder joint-problem solving efforts; (8) a satisfactory forum for negotiations must be selected and agreed upon by participants; (9) process roadblocks, such as decision-making rules and deadlines, must be held to a minimum; (10) refusal to negotiate and all-or-nothing approaches are contentious tactics that hinder joint-problem solving efforts; and (11) failure to identify and overcome participant BATNAs (best alternative to a negotiated agreement) counters negotiation efforts to reach viable solutions. In addition, as stated in Chapter 1, these factors were organized into four broad areas of focus: *substance matters* (factors 1, 2, and 3); *relationship concerns* (factors 4 and 5); *strategic and tactical decisions* (factors 6, 7, 8, and 9); and *accomplishment of agreement* (factors 10 and 11). The following sections present the findings of the empirical data offered in this study. From these discussions, which focus on the subsequent impact the analytical factors had on US and pro-ban advocates' negotiation efforts, an explanation surfaces as to why a negotiated agreement was not reached between these participants in the campaign to solve the global landmine crisis and provides the basis for several recommendations for future negotiations.

Before serious negotiations can take place, participants must agree on definitions of key elements of those negotiations. This enables them to start on the "same sheet of music" in their search for solutions. As presented in this study, no clear definitions of several key elements of the campaign negotiations were ever resolved between participants. This hindered viable solutions from being negotiated. For instance, during the campaign, the basic definition of an anti-personnel landmine was debated to the point that led to the ICBL mantra, "When is an [anti-personnel] mine not an [anti-personnel] mine?--When it's American" (Williams and Goose, 1998: 44).

Another example is also clear in the original figures used in the US State department's *Hidden Killer* report to validate the global landmine crisis. The numbers at the time became the authoritative statistics used by advocates to press initial international awareness of the crisis; in actuality, they were estimates and highly inflated.<sup>63</sup> This may have been beneficial from an advocate's point of view, i.e. defining the landmine crisis in terms of huge numbers in order to highlight the gravity of the situation, but more likely it deferred monies away from demining organizations whose donors saw no need to give to a hopeless cause. Demining was a key issue for reaching a negotiated agreement, given the common humanitarian interests of both the US government and the ICBL.

One matter not clearly defined during the pre-negotiation stage was the debate concerning the appropriate use of anti-personnel landmines. Significant topics in this debate were the issues of legitimate versus illegitimate use and the use of *dumb* versus *smart* anti-personnel landmines. Key US leadership believed the United States were not responsible for the

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<sup>63</sup> The estimates ranged between 85-110 million landmines in 60 countries and included another two million more landmines being employed each year with 26,000 new victims annually.

global landmine problem because the military had employed anti-personnel landmines in accordance with UN-negotiated treaties and within recognized, and in their view, *legitimate* military strategies and tactics. The US position held throughout the negotiations was that the *illegitimate* use of anti-personnel landmines had caused the crisis and those responsible for their indiscriminate employment outside of recognized military strategies and tactics were the ones who should be held accountable. In fact, the US believed their policy decision to employ *smart* mines would not only help solve the crisis, but was a legitimate use of anti-personnel mines and so need not be part of any negotiations to totally ban these weapons. In contrast, the ICBL and pro-ban advocates considered anti-personnel landmines themselves illegitimate weapons and that any use should be prohibited. This disagreement during the campaign negotiations hampered efforts to reach viable solutions because each participant had a separate definition of the actual problem needing to be solved.

The antagonistic framing of the landmine crisis greatly hampered any attempt to consider joint problem solving approaches by the participants. Today the ICBL joins together over 1,400 human rights and humanitarian mine action organizations in one of the most meticulous information-gathering networks for landmine data. These networks are effective “by framing debates and getting issues on the agenda ... by encouraging discursive commitments from states and other policy actors ... and by influencing behavior changes in target actors” (Keck and Sikkink, 1998). Keck and Sikkink assert that the “network members actively seek ways to bring issues to the public agenda by framing them in innovative ways ... ” (1998: 17). Although the ICBL successfully reframed the global landmine crisis as a humanitarian problem they were unsuccessful in getting the US to fully reframe its position as a non-security issue. Ideally, the negotiable humanitarian interest of the US could have been separated from its non-negotiable

security interest in order to achieve some sort of negotiable agreement towards solving the plight of landmines given initial US attempts at controlling exports and its focus on humanitarian demining.

Joint problem-solving is one of the best negotiation strategies to use in order to achieve integrative solutions. But this approach typically takes more time and requires the sincere effort on the part of each participant to focus on the interests and issues of all concerned.

Unfortunately, the Ottawa Process construct had been defined by Canadian Foreign Minister Axworthy's 14-month challenge to the international community to negotiate an agreement without the consideration of joint problem-solving concerns, such as consensus among negotiators or other necessary collaborative strategies. The military and technical experts used doing the campaign negotiations to validate, justify and lend support to each side's position led to the creation of contradictory data and reports. For example, the International Committee of the Red Cross (ICRC) commissioned military and technical experts to report on the military utility of anti-personnel landmines; the US State Department released its 1994 *Hidden Killer* report to Congress based on data from the ICRC, foreign government agencies and NGOs; and while the ICBL gained support from retired military generals, the US countered with support for its position from numerous active duty military generals.

Consequently, these contradictory experts had the effect of canceling each other out; in other words, with the experts in disagreement, the non-technical lay-person (which in this case ranged from a potential donor to congressional members and their staffs) will conclude that their opinion is just as good as the experts'. The result is the loss of the intended contribution of the experts' analysis and findings. As previously offered, a joint fact-finding effort on the part of the ICBL and US leadership, although expected to be more time consuming, would have

strengthened the chance of more viable options for solutions to the landmine crisis through a negotiated agreement.

The proponents of the landmine ban initially sought to offer states a forum for negotiating security issues outside of what they considered the “slow-moving” United Nations Conference on Disarmament (CD) and its associated Convention on Conventional Weapons (CCW). The CD is the security forum traditionally used by states to discuss and negotiate arms control issues and is where the major powers thought the landmine agenda should originate and be discussed. While the key ICBL organizations were successful in gaining the support of what they called *like-minded* states (i.e., those states who would agree to no less than a total ban prior to drafting) in pursuing the *fast-track* Ottawa Process of negotiations and were instrumental in getting the Ottawa Convention developed, the overall outcome was less of a success.

The ICBL negotiators insisted that only *like-minded* states be invited to participate in the negotiation process and drafting sessions; in fact, the ICBL motto of “no loopholes, no reservations and no exceptions” insured that the “like-minded” states would be the only ones to succeed in this new diplomatic model. What may have started out as good intentions on the part of the ICBL in trying to solve the landmine crisis, had the opposite effect. The proponents “successfully” created a treaty that marginalized *unlike-minded* states, in other words, those who wished to work within the CD/CCW forums; the result is that these states will more than likely *never* become signatories to the Ottawa Convention. In fact, the current U.S. policy is that the U.S. will not sign the Ottawa Convention; in the words of a State Department official contacted during this study, currently “the Ottawa Convention is not our business” (Kidd, 2005). The ICBL may have offered the international community a new diplomatic model, but the Ottawa Process was not useful, since its approach has been to marginalize certain states that now have

only the CD/CCW forums to negotiate in—and these forums were the exact ones that the ICBL initially wanted states *not* to deal with.

Key ICBL negotiators were frustrated that the consensus-driven CD/CCW negotiating structures were slow to deal with the humanitarian crisis they saw in the landmine issue. Not being able to play the diplomacy game they wanted, they started a new game with new rules. As shown in this study, the NGOs were not successful in dealing with states on their own turf, so to speak. It appears that the only way for the NGOs to become participants in the traditional security forums of states is to not only reframe the issue, but to change the rules in which negotiations take place so that they may participate. While NGOs have been linked to global civil society and are also somewhat linked to multilateralism, the ICBL chose not to pursue a consensus-based negotiation process. It seems a bit contradictory for the NGOs involved in the ICBL to want to be included as equal actors with equal voices in traditional decision-making processes of states in the international arena, but then to demand unconventional negotiation methods that are not conducive to multilateral agreements. The NGOs needed to focus more on interests and issues during the Ottawa Process than the position of total ban and nothing less. Based on the official testimony from several of the non-signatories states in this study, they in fact did have issues concerning landmines and in fact did support a ban of landmines.

As proposed in this study, the distributive bargaining strategies employed by the ICBL and US negotiators were instrumental in the non-accomplishment of a negotiated agreement. The refusal of a party to negotiate is one such strategy in negotiations. During the campaign, both sides were guilty of using this strategy. While the ICBL was unable to fully participate in United Nations forums, those pro-ban states that chose to negotiate in the *Ottawa Process* were in reality refusing to use the Conference on Disarmament as a forum to seek solutions to the

landmine crisis. Conversely, the US's delayed entry into the *Ottawa Process* negotiations and its *all-or-nothing* approach at the Oslo Conference was not conducive to joint problem solving efforts either.

One important finding from the analysis of the campaign to ban landmines comes directly from negotiation theory. Negotiators choose whether or not to negotiate or to continue to participate in current negotiations based on a simple decision of how much better a negotiated outcome would be compared to their best alternative. In this study, the findings indicate that the ICBL and the *Ottawa Process* failed to produce, and therefore offer, the US a more practical and realistic alternative in solving the global landmine crisis than the Conference on Disarmament and its associated *Convention on Conventional Weapons*. In other words, the *Ottawa Process* negotiations were unable to overcome the US's best alternative to a negotiated agreement (BATNA). In the case of the ICBL, the *Ottawa Process* was the chosen alternative outside of the United Nations forums. The findings suggest that the ICBL had no BATNA during the campaign. In order to reach their objective of a total ban on anti-personnel landmines, the NGOs had no choice but to negotiate with landmine users, producers, exporters, and stockpilers in some form of negotiations. Whether or not the *Ottawa Process* model was the best negotiation forum for the ICBL and pro-ban states is arguable. However, had the ICBL and pro-ban states remained in the CD, the negotiations would have included other key *un-likeminded* participants besides the US, most of whom did not support a total ban on anti-personnel landmines.

## **Recommendations**

### **Pragmatic**

As supported by the analytical findings in this study, an agreement between the US and pro-ban advocates was indeed possible. Unfortunately, the empirical evidence also suggests that

the negotiation strategies and tactics of the ICBL and the United States were not the most appropriate ones to use in order to reach amiable joint solutions and that these directly influenced the outcome of negotiation efforts between these participants to solve the global landmine crisis. Based on the results presented, future US and NGO negotiators who find themselves in situations where they must jointly solve international problems should therefore not rely on the Ottawa Process alone as a model of diplomacy. The following recommendations, based on proven negotiating principles and concepts, provide a foundation for solid joint problem solving efforts and should greatly improve future negotiations between these participants.

No clear definition of the global landmine problem was ever jointly resolved during the campaign. This hindered any real solution from being negotiated because each side had their own idea of *what* the negotiations were to accomplish. Future negotiations between the United States and NGOs should begin with a clear understanding of the interests and issues each participant and which ones they are likely to bring to the table. In the case of the global campaign to ban landmines, *mine action* offers such a beginning point. *Mine action* is a term that refers to "all activities geared towards addressing the problems faced by populations as a result of landmine contamination" (GICHD, 2002: 10). These activities, whose core components are commonly referred to as "pillars," include: *mine clearance* (i.e., de-mining, surveying, and marking minefields); *victim assistance*; *mine risk education and awareness*; *stockpile destruction*; *research and development* (towards new de-mining technologies and landmine alternatives), and *advocacy* (GICHD, 2002: 10).<sup>64</sup>

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<sup>64</sup> The US Department of State currently considers *mine action* as consisting of three pillars, *mine detection and clearance*, *mine risk education*, and *mine survivors assistance*, and depending on the needs of a country, the US "may assist in one, two or, all three pillars" (<http://www.state.gov/t/pm/rls/rpt/walkearth/2008/105805.htm>); prior to 2002, the US considered *mine awareness* as a major pillar of *mine action* (<http://www.state.gov/t/pm/rls/rpt/walkearth/2002/14868.htm>).



Mine action pillars provide the ideal source of issues in which to base negotiations towards solving the global landmine problem. For instance, had these pillars been used as a basis for establishing negotiation issues during the campaign, beyond the positional bargaining strategies presented in this study, many of the *unlike-minded* states, as the empirical data presented suggests, may have supported several separate, limited-ban agreements. As the evidence suggests, numerous states may have been conducive to negotiating and eventually signing an agreement that proved more flexible on issues such as humanitarian de-mining, victim assistance, export controls, or mine risk education. Each of these areas had separate NGOs within the ICBL to support full advocacy of their unique issue. In the case of humanitarian de-mining, the US is the main donor of total funds to states and organizations, such as Mines Advisory Group, having contributed more than USD \$1 billion since 1993. In fact, the idea of negotiating four separate treaties was actually considered by key Ottawa Process developers early in the Ottawa Process (Lawson et al., 1998: 163-164).

As Lawson et al. tell, a few “states would only be willing to move towards a total ban over a longer time frame” and so the “four-protocol model would provide a more inclusive framework for diplomatic action within the Ottawa Process (1998: 163). More importantly, from a strategic planning view point, the early developers believed that this approach “had the potential to engage large states”, such as the US, Russia, and China, in the Ottawa Process (Lawson et al., 1998: 163). Tactically, four separate conventions would provide states “with the flexibility to pick and choose which of the ban elements they would adopt and when they would adopt them” which in turn could “effectively remove most of the political pressure for states to move quickly towards a total ban” (Lawson et al., 1998: 164). Unfortunately, the four-protocol model was determined, likely by a small group of influential ICBL and pro-ban individuals, to be

a “poor match” for what had developed into as the single political focus of the Ottawa Process—“the mobilization of public opinion and moral authority behind the very clear and easily communicated message—ban AP mines now” (Lawson et al., 1998: 164).

Distributive, non-cooperative negotiation strategies and tactics, such as contradictory experts and shame tactics, are not conducive to cooperative efforts towards negotiated agreements. With that said, the use of deadlines, ultimatums, and positional bargaining strategies should not be a driving force in seeking viable solutions. The driving force should be the joint desire to reach cooperative solutions that benefit the international community as a whole while still satisfying the interests and issues of all the negotiation participants involved.

During the pre-negotiation stage, joint decisions should be made concerning negotiation process matters, such as where the negotiations should be take place and who should be allowed or are necessary to participate in the negotiations. For example, one recommendation along these lines is to use the United Nations system for all multilateral negotiations and to incorporate the relevant NGOs into that system, instead of making them work outside of it. The objective here is to not create *like-minded* versus *unlike-minded* coalitions which always leads to one group or another being marginalized within the negotiations. This will also solve the problem of not having to overcome BATNAs because each side will be assured their interest and issues have full consideration of all parties concerned.

### **Future Research**

Considering the multilateral, multinational, multi-issue political dynamics, and *heterogeneous* nature of the participants in the global campaign to ban landmines, Graham Allison’s pivotal analysis of the Cuban Missile Crisis, *Essence of Decision*, offers an intriguing option for future research. Allison offers three analytical “Models” and then applies each of

them in describing the same event, highlighting the strengths and limitations of each model (1971). Based on this research design, a study could be accomplished that applied the three models to the global campaign to ban landmines. With that said, of the three models, Model II, which Graham calls the *Organizational Process Model*, and Model III, referred to as the *Governmental (Bureaucratic) Politics Model*, both have compelling analytical facets that could be used to provide an insightful analysis to the global campaign to ban landmines. Also, as Allison indicates, full Model II and Model III analyses could require large amounts of information and data (1971: 264-265). Given the transparency of the negotiations within the United Nations forums and the Ottawa Process negotiations and conferences during the campaign, and the current status of the Internet, large amounts of primary data from proceedings, meetings, studies, press briefings, and official statements is readily available from various sources for researchers to utilize.

Model II's unit of analysis is "governmental action as organizational output" and one of its organizing assumptions is that states are not "monolithic" *black boxes*, but a "constellation of loosely allied organizations on top of which government leaders sit" (Allison, 1971: 78-80). Therefore, the "characteristics of a government's action in any instance [e.g. particular process decisions and negotiation choices made during the campaign] follows those established routines, and from the choice made by government leaders—on the basis of information and estimates provided by existing routines—among established programs" (Allison, 1971: 88). As Allison suggests, the Organizational Process Model's "explanatory power is achieved by uncovering the organizational routines and repertoires that produced the outputs [e.g. particular negotiation decisions] that comprise the puzzling occurrence [e.g. non-agreements]" (Allison, 1971: 88).

The *Governmental (Bureaucratic) Politics Model*'s unit of analysis is "governmental action as political resultant" (Allison, 1971: 162)<sup>65</sup>. Instrumental in Model III's explanatory power, in regards to an analysis of the global campaign to ban landmines, is its organizing concept that focuses on searching for answers to four questions: "Who plays? What determines each player's stand? What determines each player's relative influence? How does the game combine players' stands, influence, and moves to yield governmental decisions and actions?" (Allison, 1971: 164). For example, what influence did key individuals (e.g. President Clinton; Senator Leahy; Senator Thurmond; Chairman of the Joint Chiefs, General Shalikashvili; Secretary of State Warren Christopher; Ambassador Inderfurth or US delegation head, Michael Matheson) have on US landmine policy in reference to the overall negotiation strategies, tactics, and decisions made during the campaign?

In reference to the ICBL, Model III could provide analysis for what determined key individuals' stand (e.g. Jody Williams, Stephen Goose; Bobby Muller; Jerry White and Ken Rutherford of the Landmines Survivor Network; or Rae McGrath of MAG) and their relative influence in setting the pro-ban advocacy agenda and overall strategies and tactics used during the campaign? What influence did other important international figures, such as UN Secretary General Boutros Boutros-Ghali, Foreign Minister Axworthy or Princess Diana on the campaign and how were they able to combine their stand, influence and moves to yield state actions? A focus on individual players could indeed provide compelling findings given the *heterogeneous* nature of the organizations within the campaign.

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<sup>65</sup> "Resultants in the sense that what happens is not chosen as a solution to a problem but rather results from compromise, conflict, and confusion of officials with diverse interests and unequal influence; *political* in the sense that the activity from which decisions and actions emerge is best characterized as bargaining along regularized channels among individual members of the government" (Allison, 1971: 162).

APPENDIX A  
SENATOR STRUM THURMOND REMARKS FROM THE  
CONGRESSIONAL SESSION HELD ON FRIDAY, 10 SEP 1993

Mr. President, I share the concerns expressed by the senior Senator from Vermont, Senator Leahy, and the senior Senator from Massachusetts, Senator Kennedy regarding the tragic accidental deaths and injuries suffered by innocent civilians as a result of antipersonnel landmines left on former battlefields around the world. Unfortunately, the weapons of war are intended to maim and kill. Antipersonnel landmines are particularly bad because they may remain in battle areas long after the battles are over causing injury and death to innocent civilians. I support Senator Kennedy's amendment to utilize resources of the Department of Defense to assist in the removal of these mines and for research to develop better ways to detect and neutralize residual antipersonnel landmines.

I appreciate the cooperative manner in which Senator Leahy's staff has worked with members of my staff. I understand that Senator Leahy has agreed to maintain the wording of the current law with respect to the policy of the United States regarding the manufacture, possession, and use of antipersonnel landmines. Last year the Senator from Vermont agreed that the moratorium on sale, transfer, or export of antipersonnel landmines should be for only 1 year. This year, he proposes that the moratorium should be extended for 3 more years. Unfortunately, because of this proposed moratorium, the U.S. manufacturers will continue to be prohibited from exporting antipersonnel landmines with self-destruct features.

Antipersonnel landmines manufactured by the United States have self-destruct or self-neutralizing features rendering them harmless after reasonable periods of time. Obviously, these mines do not pose the threat to innocent civilians that less sophisticated mines do. As a result, countries seeking to buy such mines from the U.S. firms will be forced to buy elsewhere and may buy the more dangerous mines without self-destruct features, thereby making the situation Senator Leahy has described, and which we all abhor, even worse.

In fact, the protocol of the 1980 convention cited throughout Senator Leahy's amendment does not preclude the use of antipersonnel mines with self-destruct or self-neutralizing features. But Senator Leahy's amendment prohibits the sale or export of such mines. Mr. President, I am also concerned that the United States will be prohibited from transferring antipersonnel landmines to allies and coalition parties even when hostilities are imminent or have begun.

I hope that the Senator from Vermont does not intend to propose limitations on the future use of mines by our own forces. Our military forces should not be required to go into battle with unilaterally imposed restrictions which greatly increase their risks. Our forces may arrive in areas of combat outnumbered, requiring the use of economy of force measures where the employment of both antitank and antipersonnel mines are essential to deny the enemy key terrain and critical avenues of approach. Mr. President, all of us share the concern expressed by Senator Leahy's amendment. However, I believe that the moratorium proposed in this amendment may have a symbolic effect but will do little to alleviate the situation (Congressional Record, 1993: S14452).

APPENDIX B  
LETTER OFFERED BY  
THE SENATE ARMED SERVICES COMMITTEE

United States Senate,  
Committee on Armed Services,  
Washington, DC, March 22, 1995.

Hon. Jesse Helms, Chairman,  
Foreign Relations Committee,  
U.S. Senate, Washington, DC.

Dear Mr. Chairman:

The Committee on Armed Services has conducted a brief review of the military implications of the Convention on Conventional Weapons (Treaty Document 103-25). We understand that the Administration has requested the Senate to provide its advice and consent to ratification at the earliest possible time, so that the United States may participate in the Review Conference scheduled to begin September 25, 1995.

The Committee's understanding is that for humanitarian purposes the Convention is intended to restrict the use of specific types of conventional weapons in armed conflicts, specifically, landmines and booby-traps.

Like the Committee on Foreign Relations, the Committee on Armed Services has concerns about the Treaty, which include:

- (1) The effectiveness of the Convention having been ratified by only 42 States Parties;
- (2) Future amendments to the Convention, that are meant to improve its effectiveness; and,
- (3) The impact of Protocol III on NATO operations.

EFFECTIVENESS OF CONVENTION

We understand that the Convention is part of a broader program of humanitarian conventions to restrict the production, use, and export of landmines, which the Administration would like to have other countries join, to reduce civilian casualties.

The United States military services have identified landmines as a significant threat to future force projections and military operations other than war, including peacekeeping and humanitarian assistance. The use of landmines in internal conflicts in undeveloped countries is particularly acute in Africa, Asia, and Latin America. Training and education assistance for humanitarian landmine clearing activities, as well

as development of technology for mine detection, classification, mapping and neutralization, is being provided to these regions by the Department of Defense and the military services.

The Committee strongly urges the Administration to encourage the countries in the regions in which the United States is providing assistance in humanitarian landmine activities, to ratify, and adhere to the Convention. Additionally, the Committee urges the Administration to seek assistance from the other parties to the Convention, during the Review Conference, and in bilateral discussions with non-parties, to encourage the undeveloped nations of Africa, Asia and Latin America to ratify the Convention.

#### FUTURE AMENDMENTS TO THE CONVENTION

The Committee understands that the Administration intends to offer amendments to the Convention during the September 1995 Review Conference with regard to establishing a verification and compliance commission, to tighten restrictions on the use of landmines, and to ensure exclusion of command-detonated Claymore mines from such restrictions.

The Committee enjoins the Administration to consult closely with the relevant congressional committees prior to the tabling and negotiation of amendments to the Convention.

#### NATO OPERATIONS AND PROTOCOL III

The United States is concerned about restrictions on the use of air-delivered incendiaries in Protocol III, from both a military and humanitarian perspective, and as such, the Administration did not submit it to the Senate for its advice and consent to ratification.

During a briefing on the Convention with the Administration interagency team, it was brought to the Committee's attention that with the exception of France, all other countries ratifying the Convention accepted Protocol III.

The Committee is concerned about the impact on NATO operations resulting from ratification of Protocol III by a number of our alliance partners.

#### COMMITTEE RECOMMENDATION

The Committee has reviewed the Convention on Conventional Weapons Convention Resolution of Ratification approved by the Committee on Foreign Relations on March 22, 1995. With the following concerns noted, the Committee agrees with the Foreign Relations Committee's actions on this Treaty.

The Committee is concerned about the Administration's plans for amendments to the Convention, particularly the establishment of a Commission. The Committee believes it is important to ensure that a large, expensive bureaucracy is not established and that the precedent-setting nature of an enforcement commission must be carefully considered.

Second, the Committee believes that command-detonated Claymore-type mines must be excluded from the coverage of any future amendments intended to tighten restrictions on the use of landmines.

We have consulted with all Members of the Committee on the views, recommendations, and understandings contained in this report.

We are pleased to advise you of the Committee's advice and consent to ratification of this Convention.

Sincerely,  
Sam Nunn, Ranking Member.  
Strom Thurmond, Chairman.



## APPENDIX C

### AN EXCERPT FROM THE *CONGRESSIONAL RECORD* TRANSCRIPT OF A DEBATE BETWEEN SENATORS PATRICK LEAHY (D-VT); JOHN WARNER (R-VA), CHAIR OF THE COMMITTEE ON RULES AND ADMINISTRATION, AND SAM NUNN (D-GA), RANKING MEMBER OF THE COMMITTEE ON ARMED SERVICES.

Senator Warner - Mr. President, there is no Senator that would not like to see this weapon removed. But where do you start in the series of weapons? Where do you start and where do you end? Military history shows that whenever we move into an area, and mind you, in most instances, our troops must deploy forward, often into unknown country, against an adversary who is in place, if we were to agree to an international conference such as this, the enemy would know exactly where the mines would go, and we would lose an advantage.

Furthermore, when we deploy into an area, we, in number are less in many instances than the adversary who is in place. We need to have an advantage. We need to seal off what is known in military parlance as "avenues of approach" and do it very quickly, if necessary, by air, to drop landmines and other ordinances to seal off an avenue of reproach. This would stop that. We are tying our hands. Therefore, we simply can not, with due respect to my distinguished colleague, agree to this amendment.

Senator Leahy - Mr. President, the last thing I want to do in war is tie our hands, but that is not the issue. We are the most powerful nation history has ever known. This amendment allows us to use antitank mines. It allows us to use Claymore mines, to use mines along borders and in demilitarized zones. It simply says let us take a step so we and other countries can get rid of these hidden killers.

The fact of the matter is ... it is usually the civilians who suffer. Face it, is somebody going to march across the Canadian border against the United States or across the Mexican border? It is the child walking down the jungle path who loses a leg. They are who clear landmines an arm and a leg at a time. It is the people in Chechnya who die from them. It is the Afghans, a million and a half of whom are on the border of Pakistan, because they cannot go back to their own country. It is the 100 million landmines that make it impossible for countries to develop.

Senator Warner - Mr. President, the landmines currently employed by the US forces have a self-destruct mechanism, which means after a period of time, which can be fixed, they self-destruct and are no longer harmful to anyone. That is as far as we can go, I say to my good friend from Vermont. That is as far as we can go.

Senator Nunn - The Leahy amendment, once it goes into effect, would it preclude the allied forces, United States and Korean forces, having any mines in the DMZ [Demilitarized Zone] in Korea?

Senator Leahy - No, in fact it specifically permits the use of mines in demilitarized zones.

Senator Nunn - Because of the international border?

Senator Leahy - It refers to demilitarized zones.

Senator Nunn - Claymore mines are excepted. We have mines around Guantanamo Bay, would that be excepted?

Senator Leahy - That would be excepted. It is also in a border area that is marked and guarded.

Senator Nunn - My counsel says those are not exceptions. Your counsel says they are. I hope this legislative record will help clarify that. The Senator is saying the DMZ [in Korea] would be excepted, and Guantanamo Bay would be excepted?

Senator Leahy - Claymores and antitank mines would be excepted under any circumstances, anywhere, whether on such a border or not.

Senator Nunn - Could the Senator tell us the difference between a Claymore mine and any other?

Senator Leahy - A Claymore mine is one where you make the determination whether it goes off. You trigger it with a triggering device.

Senator Nunn - My counsel says that is not excepted in this amendment.

Senator Leahy - By the definition, I am told by counsel; by the definition it is excepted.

Senator Nunn - Mr. President, there is considerable confusion about this amendment. Whatever happens on this vote, I think we are going to have to do some work on it in conference, if it passes.

Senator Warner - Mr. President, let me read to the Senate exactly what our distinguished colleague has in his amendment ... for a period of one year, beginning three years after the date of enactment of this Act, the United States shall not use antipersonnel landmines except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

Mr. President, with no disrespect for my colleague, it is simply impossible to go to war under these rules. We are asking our young men and women to take risks which are just not fair to them as individuals. It says nothing about the other forces, be it the enemy or such allies as we may have working with us.

I say to my distinguished colleague, I do not think this amendment has been well thought through. We all recognize and join in our desire to stop this type of weaponry throughout the world, but this simply will not do it.

Senator Leahy - Mr. President, this is indeed a well thought out amendment. It is an issue we have spent years working on. There have been debates here. There have been debates at the United Nations. The President of the United States has called for the eventual elimination of antipersonnel landmines. The United States has joined with other nations, virtually all other nations, in calling for that.

We cannot pass laws and tell other countries what to do, but we can say that we will start to limit our use of antipersonnel landmines, to challenge other countries to do the same. It is not a question of putting our young people at risk in war. It is a question of trying to protect our young people today. Today we have far more of our people in danger of being killed or maimed by the proliferation of landmines in parts of the world where we send peacekeepers, where we send medical personnel, where we send USAID people.

Senator Nunn - Will the Senator yield for a brief question? I think it is important. I think the Senator will agree the mines he was talking about that the Kuwaitis cleared were not the United States mines, they were the ones laid by the Iraqis. Is that not correct?

Senator Leahy - That is correct.

Senator Nunn - The U.S. mines were the ones that self-destructed.

Senator Leahy - No, there were mines of ours, too.

Senator Nunn - But those mines did not cause the Kuwaitis any problem because they self-destructed.

Senator Leahy - I am told by the Pentagon, and you would have access to, at least, the same numbers, at least 1,700 of the self-destruct mines never detonated. We can put down 100,000 self-destruct mines and have at least 90 percent of them work and you still have about 10,000 that do not. We have exceptions for some mines. We have 3 years to develop alternatives, as the Pentagon says it is doing. During those 3 years, if they are unable to, I will be happy to join with my colleagues, I will be here during those 3 years, to talk about other methods.

The fact of the matter is, one of the reasons why virtually every editorial writer from the left to the right, why virtually every human rights group, every church group, every medical group, veterans and others, have called for passage of this, is because they know the threat exists, not during the battle, the threat exists for decades afterwards (Congressional Record, 4 Aug 1995: S11425 - S11426).

APPENDIX D  
SELECTED DELEGATION EXCERPTS TAKEN FROM THE *GENERAL EXCHANGE OF  
VIEWS* SESSIONS HELD ON 26-28 SEP 1995, AS SUMMARIZED IN THE *SUMMARY  
REPORTS OF THE 2<sup>ND</sup> - 6<sup>TH</sup> MEETINGS*

**Amb. Molander (President of the Conference/Sweden)** – after expressing his gratitude for the confidence placed in him, [Molander] was sure the Conference would achieve results that would strengthen the Convention. He welcomed the presence of representatives of some 50 non-governmental organizations, including victims of landmines and others who risked their lives to clear mines or dedicated themselves to the rehabilitation of victims and stimulating public awareness. Their views might not always coincide with those of Governments, but their experience and participation would be valuable. At the same time, no rule concerning the laws of war would be upheld unless it struck a balance between military requirements and humanitarian concerns (UNGA, 29 Sep 95: 3).

**Mr. De Yturriaga (Spain)** – speaking on behalf of the European Union, said that his statement was endorsed by the following countries associated with the Union: Bulgaria, Cyprus, the Czech Republic, Hungary, Lithuania, Malta, Poland, Romania and Slovakia. The European Union was particularly sensitive to the human tragedy caused by the indiscriminate use of certain weapons, and especially the hundred million or so landmines existing in over 60 countries. The consequences of the indiscriminate use of anti-personnel landmines, especially in internal conflicts, were appalling and urgent action was required.

The European Union considered the main objective of the present Review Conference to be to foster the universality of the Convention and to strengthen its Protocol II. The European Union had exchanged views with a number of countries in preparing for the Conference and had reached the view that efforts should be focused on strengthening Protocol II, concentrating on four specific objectives that addressed the most important aspects of the landmines problem, which included:

(1) Extending the scope of application to non-international armed conflicts because it was precisely in such conflicts, the most common kind at present, that the indiscriminate use of anti-personnel mines occurred most frequently and had the most devastating effects on innocent civilians; (2) substantially strengthening restrictions or prohibitions concerning anti-personnel mines and their export; (3) the need for an effective verification mechanism; and, (4) providing provisions concerning technical assistance for mine clearance. (UNGA, 29 Sep 95: 4-5).

**Mr. Punch (Australia)** – said that the presence of the participants at the Conference reflected a shared belief that even the harsh reality of armed conflict should be tempered by humanitarian constraints. Unfortunately, there was no such consensus on how best to solve the problems posed by the misuse of anti-personnel landmines, problems which had greatly increased since the Convention had been opened for signature 14 years previously. In order to make real progress, efforts to clear existing minefields must be combined with action that attacked the problem at its source. His Government was committed to the eventual elimination of all anti-personnel

landmines as an ultimate goal, but, in the absence of widespread international support for an absolute ban, at least pending the development of viable and humane alternatives; it was of the view that lesser but still worthwhile practical solutions should be pursued. It would therefore urge all countries to support a ban on long-lived anti-personnel mines that were not self-destructing or self-deactivating and on non-detectable mines (UNGA, 2 Oct 95: 6-7).

**Mr. Minty (Observer for South Africa)** – said that South Africa's recent accession to the Convention had been motivated by its commitment to eliminating the suffering caused by war and to promoting international peace and security. Past armed conflicts had left landmine problems in many parts of the world, including southern Africa. His Government therefore supported the elimination of anti-personnel mines as an ultimate goal, but its immediate concern was to prevent their proliferation and restrict their use (UNGA, 2 Oct 95: 8)

**Mr. Ieng Mouly (Observer for Cambodia)** – read out a message from the King of Cambodia, which described the legacy of horror left by landmines in Cambodia. It had the highest percentage of inhabitants disabled by such weapons. During 1990 and the first quarter of 1991, landmines had injured more combatants and non-combatants than any other weapon, and more than half of those injured had been innocent civilians. The country was already infested with landmines, yet the warring sides continued to plant still more, without keeping any record of their location, which made it very difficult to detect and remove them. The King expressed his appreciation of the efforts made by several NGOs ... which had provided Cambodians with intensive training in demining operations. The King appealed to countries producing landmines to join the Cambodian Government in enforcing a complete ban on the use, production, stockpiling, sale, transfer and export of anti-personnel mines, including the new generation of self-destructing and self-neutralizing mines.

The Government of Cambodia was currently drafting legislation which would ban the production, use, possession, transfer, trade, sale, import and export of anti-personnel mines. It would provide for criminal penalties, including fines, for offences committed by civilians or by members of the police or armed forces. It further stipulated the destruction of existing mine stockpiles and the creation of a mine control commission. The Cambodian delegation had come to the Review Conference with a view to achieving an international ban on anti-personnel landmines, but was willing to cooperate with others in ensuring the success of the meeting. In due course it would take steps to sign and ratify the revised Convention and become a party to it (UNGA, 2 Oct 95: 17-18)

**Mr. Davis (United Kingdom)** – said that his Government shared the widespread abhorrence at the terrible suffering caused to civilians, much of it long after hostilities had ended, by the irresponsible and indiscriminate use of landmines. It strongly endorsed the view that the international community ought to address the problem urgently and effectively. A total ban was now being imposed [in the UK] on the export of non-detectable or non-self-destructing anti-personnel mines as well as on the export of all anti-personnel landmines to countries which had not ratified the CCW Convention, with the aim of ending the trade in those types of anti-personnel landmines that were potentially the most dangerous to civilians. Despite the commitment demonstrated by other States which had announced initiatives of their own,

however, everyone knew that national measures alone would not be enough. What was needed was a concerted effort by the international community, and the Review Conference was an important step in that direction.

It was easy to say ‘ban all landmines’, but the vast majority of countries, including the United Kingdom, regarded them as a legitimate means of defence, provided they were used responsibly and in accordance with the laws of war. Clearly, the real problem lay elsewhere. A ban on landmines by some of the most responsible countries would have little effect in the areas with the biggest problems, and landmines would continue to be used. His Government's aim was to ensure that the international rules for the use of landmines were tightened up and that countries which did not follow those rules were denied access to them. However, it was necessary to go further and to strive to reduce existing stocks of non-self-destructing anti-personnel mines until they were phased out of existence.

Mines had been described as weapons which acted in slow motion, and it was their so-called ‘delayed action’ which led to such terrible protracted suffering. All landmines could cause injuries to civilians as well as soldiers if misused, but a landmine which self-destructed after a given period ceased to be a danger. That is why the United Kingdom was keen to see self-destructing mines become the norm. His Government was convinced that a failure rate of one in a thousand for such mines was possible and insisted that that standard be written into the definition for self-destructing anti-personnel mines in the revised Protocol II. Any anti-personnel mine that did not meet that standard should be classified as non-self-destructing, as a ‘dumb’ mine, with all the prohibitions attracted by that definition (UNGA, 3 Oct 1995a: 3-4)

**Mr. Li Changhe (China)** – China had been amongst the first States to sign and ratify the CCW. It had faithfully fulfilled its obligations under the Convention and made enormous efforts towards realizing its objectives. The Chinese Government had publicized the Convention extensively among its military forces, and the military had sponsored many seminars on the Convention together with interested Chinese and foreign institutions. Chinese troops strictly abided by the Convention in their military activities. No violation had ever occurred. In their plans for weapon development, the Chinese military had taken the Convention fully into consideration. The Chinese Government had carried out large-scale mine-clearance campaigns to protect the civilian population. It had also engaged in international cooperation in mine clearance and provided assistance to other countries affected by landmines, supplying them with mine detectors free of charge and helping them train mine clearers. No matter how comprehensive a law was, it could not be fully effective if it was not observed universally. China thus welcomed the recent accession of a number of countries to the Convention and its Protocols. The fact remained, however, that there were still only 49 States parties — less than one third of the international community. Of particular concern was the fact that many countries still at war or with uncleared minefields had not yet acceded to those instruments — a state of affairs that seriously undermined their effectiveness. It was thus a priority to encourage more countries to accede to the Convention and its Protocols.

The other main task of the Conference was to make the provisions of those instruments more rational and more effective. All rules pertaining to the means and methods of warfare were

the products of a balance and compromise between legitimate military needs and humanitarian considerations. Given the number of innocent civilians injured as a result of the indiscriminate use of landmines, it was necessary to revise Protocol II, imposing further restrictions on their use. It must not, however, be forgotten that mines were also effective defensive weapons, enabling countries to resist foreign aggression. All States had a legitimate right to use mines to oppose foreign aggressors. Both humanitarian ideals and legitimate military needs must thus be taken into consideration when revising Protocol II.

[Mr. Changhe] wished to explain the main positions of the Chinese Government regarding the revision of that Protocol. First, given the risk of injuries to the civilian population, China favored expanding its scope to include domestic armed conflicts. However, in order to avoid adverse legal consequences, the Protocol should make it clear what was meant by 'non-international armed conflicts' and should stipulate that the expansion of its scope should not change the legal status of the parties to a conflict. A Convention should be legally binding on 11 parties to domestic armed conflicts on the territory of a State party.

Secondly, China supported the marking of minefields and mined areas with uniform signs, and the standardization of the records of minefields, with a view to minimizing civilian casualties. However, three principles should be observed in that regard: international marks and records of minefields should not undermine a State's right to self-defense; States parties should be allowed to determine the use of international marks in the light of their specific self-defense environments; and a State party should have the right not to make public the records of mines placed within its territory for the purpose of self-defense. Thirdly, the revision of Protocol II, which was aimed at reducing civilian casualties, should not undermine States parties' self-defense capabilities and should take into account their varying scientific and technological capacities. Those should be the guiding principles in consideration of the types of mines to be prohibited and the criteria for detectability and the reliability of self-destruction mechanisms.

Fourthly, countries plagued by landmines generally had war-damaged economies. The international community was duty bound to provide those countries with assistance, first and foremost in connection with mine clearance. His delegation favored including a provision on that question in the Protocol ... Fifthly, verification of the Protocol had been a controversial issue at the meetings of the Group of Governmental Experts. The most practical approach for the present would be to formulate transparency measures rather than a complex and intrusive verification mechanism. It would be of little use to set up a verification mechanism while many countries suffering from the indiscriminate use of mines were still not parties to the Convention and its Protocols. Furthermore, an intrusive verification mechanism, and the financial burden it would entail, might discourage States not parties from acceding to those instruments.

Sixthly, since the Convention and its Protocols fell largely within the framework of the laws of war and humanitarian laws, they should, strictly speaking, deal only with the use of weapons, and not with their transfer. However, in the interests of reducing the threat to civilians, his delegation could agree to the inclusion of provisions banning the transfer of mines the use of which was prohibited by the Protocol.

Finally, he wished to point out that the Chinese text of the Convention and its Protocols was imprecise in many places, and differed from the English text in some of its provisions. When signing the Convention, the Chinese Government had made a reservation on that question, hoping that the issue could be resolved shortly. The present Conference would provide a good opportunity to deal with that matter (UNGA, 3 Oct 1995a: 7-9)

**Mr. Krylov (Russian Federation)** – said that the most topical issue facing the Conference was the problem of landmines. The Russian Federation actively supported the international community's efforts to impose strict limitations on the use of mines, and in August 1993 President Yeltsin had proposed a humanitarian initiative to that effect. Pursuant to that initiative, at the end of 1994 the Russian Federation had declared a three-year moratorium on the export of anti-personnel mines. However, the export of mines was only one aspect of the issue. It was also important to address the question of controls over the use of such weapons. Broadly speaking, the new draft version of Protocol II prepared by the Group of Governmental Experts was an acceptable basis for further consideration during the Conference. The proposal to extend the Protocol to non-international conflicts was a step in the right direction; such conflicts should logically be covered by the Convention as a whole. The ideas taking shape in the new draft, particularly with regard to the prohibition of non-detectable mines and restrictions on the use of non-self-destructing ones, would help to make military activities in that sphere more humane.

His delegation also noted with interest the proposals aimed at establishing an adequate legal framework governing the development, production, stockpiling and transfer of mines and considered the proposal to ban the transfer of mines to non-governmental entities fully justifiable. The proposal to ban transfers of mines to States not parties to the Protocol which failed to comply with its requirements was also well founded. The time had come to establish an international regime under which problems concerning the transfer of mines could be solved in a civilized fashion (UNGA, 3 Oct 1995a: 9-10)

**Mr. Morales (Cuba)** – said that the indiscriminate and often irresponsible use of landmines caused untold suffering to innocent civilians who happened to be on the scene of armed conflicts. Cuba had been compelled, against its will and with the sole objective of ensuring its security, to mine the entire area bordering the naval base of Guantanamo, the only base in the world maintained by force against the will of the local Government and people. The Government had been obliged to take strict security measures to protect the civilian population in the area, which prevented it from using the land for more useful purposes ... Cuba produced mines for the sole purpose of using them in the defence of its territory. In no circumstances would it use them in any other type of conflict.

Cuba had never exported any type of mines. It hoped that other countries would adopt the same position and not place commercial interests above humanitarian interests. It was ready to consider any measure likely to promote international cooperation with regard to mine clearance and to the transfer of technology, equipment, experts and scientific and technological information. International cooperation among States parties would provide a most important incentive encouraging other States to accede to the Convention.



Cuba had decided to take part in the work of the present Conference with the firm intention of adopting all necessary measures reflecting the interests of the international community while at the same time taking into account its own security interests in the face of the aggression to which it was constantly subjected (UNGA, 3 Oct 1995a: 13-14)

**Ms. Williams (Observer for the Viet Nam Veterans of America Foundation)** – speaking on behalf of the non-governmental organizations comprising the International Campaign to Ban Landmines, said that more than 350 nongovernmental organizations in 23 countries were working together to ban those indiscriminate and particularly injurious weapons. Their aim had been called Utopian; but it was also realistic. Landmines were often regarded as cheap weapons as soldiers who did not require food, sleep or supervision to carry out their task. Unfortunately, they remained lethal for generations. Their long-term socio-economic cost thus far outweighed their immediate advantages.

As non-combatants, non-governmental organizations were also accused of trying to discuss complex military issues that they did not really understand. It was thus worth noting that many of the founders of the organization she represented were themselves veterans of the Viet Nam conflict and that many of them had also been permanently disabled by landmines used in that war. The demands they voiced through the International Campaign to Ban Landmines were not utopian they were born of painful experience: between 65 and 70 per cent of all United States Marine Corps casualties in Viet Nam in 1965 had been victims of landmines and booby-traps. Despite those chilling figures, despite the fact that landmines were responsible for the majority of the United Nations Protection Force's casualties in Croatia and Bosnia, it was still argued that landmines were needed to protect fighting forces.

The International Campaign to Ban Landmines applauded the call by the international community for the eventual elimination of landmines and the political will of countries such as Belgium and France that had unilaterally banned production or trade. Nevertheless, it seemed clear that for many countries the real emphasis was on the word ‘eventual’, not ‘elimination’.

Her organization, and the International Campaign [to Ban Landmines], urged delegates to consider the growing body of evidence documenting the immense cost to the international community of the continued use of anti-personnel landmines. If proper account were taken of that cost, it would surely be realized that such weapons ought to be eliminated immediately (UNGA, 5 Oct 1995: 2)

**Mr. Goose (Observer for the Human Rights Watch Arms Project)** – said that the Conference had heard laudable statements by many nations in support of a comprehensive ban on anti-personnel landmines. However, few, if any, delegates seemed to believe that the Conference would actually achieve that goal, or even that it was a goal worth seriously pursuing at the present time. The millions of people around the world calling for an immediate, comprehensive ban on anti-personnel landmines were not going to be satisfied with attempts simply to tighten restrictions on certain types of mines. The futility of the approach adopted in the 1980 Convention, which was largely being replicated at the present Conference, was demonstrated by

the fact that in the past 15 years some 65 million mines had been laid and had claimed hundreds of thousands of mainly civilian casualties.

There was general agreement among non-governmental organizations [NGOs] that, in addition to the proposals in the Chairman's rolling text, there were three measures that would bring the world closer to a total ban on antipersonnel mines: expansion of the scope of the Convention, adoption of verification and compliance mechanisms, and provision for frequent review of the Convention and its Protocols. His organization firmly believed that the Convention and its Protocols should apply in all circumstances; language that was ambiguous or left room for interpretation with regard to the application of regulations on landmines should not be accepted ...

A new provision should be adopted requiring review of the Convention and its Protocols every five years. Such a provision was desirable, first, because the present Review Conference was unlikely to achieve sufficiently significant revisions; and secondly, because the review process itself clearly yielded positive results, in the form of increased governmental awareness of the landmine problem. It was worth noting that the number of parties to the Convention had risen from 36 to 50 during the preparations for the present Conference.

Most [NGOs] were deeply concerned about the proposal many delegates appeared to regard as among the most significant: namely, the requirement for self-destructing mechanisms on remotely-delivered mines and on mines not in marked and monitored areas. That emphasis on self-destructing mines was misguided: when active, such mines had indiscriminate effects, like any other mine. Self-destructing mines were also primarily used in remote-delivery systems capable of dispensing thousands of mines in a matter of minutes, with little precision. An emphasis on self-destructing mines could thus actually lead to an even greater number of mines being laid around the world, in an even more random fashion. There were also serious questions about the reliability of self-destructing mechanisms. Taken together, those factors made it clear that self-destructing mines would continue to pose severe dangers to civilian populations. Moreover, the promotion of such mines legitimized the use of anti-personnel mines. The international community ought instead to create a new international norm to the effect that any use of anti-personnel mines of any kind was unacceptable.

Many delegates had spoken of the need to safeguard the 'legitimate' use of mines. There was, however, no such thing as 'legitimate' use: antipersonnel mines should be considered illegal under existing international humanitarian law because they were inherently indiscriminate and failed to meet the proportionality requirement. It was clear that military considerations continued to dominate policymaking on landmines in most countries. Few if any nations had undertaken a serious examination of their military utility. His organization was convinced that the long-term human and socio-economic costs of mines far outweighed their limited short-term military utility. Legally, morally and economically, there was no alternative to a comprehensive and permanent ban on anti-personnel landmines (UNGA, 5 Oct 1995: 3-4)

APPENDIX E  
CONGRESSIONAL DEBATES OF THE U.S. LANDMINE USE MORATORIUM ACT

**Excerpts Taken From the *Congressional Record* (Legislative Week Of 15-19 Dec 1995)**

**Mr. Leahy (D-VT)** - Mr. President, I understand this afternoon at some point, we will have a vote on whether to proceed to the conference report on Department of Defense authorization. I am strongly opposed to several provisions in that bill ... there is one issue that I intend to talk about at considerable length. This body voted by better than a 2 to 1 margin, nearly 3 to 1 margin, to put some limitation on antipersonnel landmines. For some reason a provision that was not even considered by either the House or the Senate on antipersonnel landmines ended up in the Defense authorization bill, which would have the effect of undermining my amendment. It is an absolute disregard and repudiation of the intent of the Senate.

At a time when every member of the military is talking about the danger to our men and women in Bosnia from landmines, at a time when the President of the United States talks about the potential casualties from landmines, at a time when every press report talks about the potential of landmine casualties in Bosnia, at a time when virtually every Member of this body and the other body are concerned about the potential American casualties from landmines, we let somebody from the Pentagon write in a provision in the DOD bill, a provision that was never voted on by the House, never voted on by the Senate, never considered by either body suddenly showed up in the conference report. A provision that would ensure that the plague of landmines continues unabated

I call on the Pentagon, out of a sense of morality; at least, to stop the hypocrisy of saying they worry about our people being injured by landmines, and then do nothing to stop their use around the world. And it is not only our troops who are threatened, it is hundreds of millions of people who are killed and maimed by these indiscriminate weapons every day. Over 26,000 people every year, and most are innocent civilians.

[Mr. Leahy then held up an actual landmine for view] This, Mr. President, is a landmine. It is an antipersonnel landmine. It has been disarmed. If it were active, with just the slightest pressure it would take my arm and most of my face off. There are millions of landmines in Bosnia, many of which are made of plastic and virtually impossible to detect, and others are designed to spring up and explode at waist level, sending out horrendous shrapnel that would disembowel or cut in half somebody within 50 or 100 feet.

When we vote on the Department of Defense authorization bill, we ought to send a very clear message to the Pentagon that it is not enough to say you want to protect our men and women when they go in harm's way on peacekeeping or rescue missions or anything else. It is time to say we will take steps here, to show leadership, to set an example, to stop this senseless use of landmines worldwide ... (Cong Record, 15 Dec 97: S18697 – S18699).

**Mr. Thurmond (R-SC)** - Mr. President, as we continue to debate the conference report on the Department of Defense Authorization Bill, I want to make just a few opening comments.

As I indicated earlier, it has been long and arduous process, but we have a sound bill that supports our national security and the objectives we set early in the year.

As in every conference there had to be some give and take. I have no doubt that there are provisions in this bill that may be objectionable to some. There are provisions that I would rather not have in a defense bill. However, we must judge this bill as a whole, not by individual provisions. If you make an objective evaluation of the bill, I am confident you will come to the conclusion that all our efforts paid off. We provided for the readiness of the force both for the near term and in the out years. We provided for the welfare of our soldiers and their families. We provided the Department of Defense with the tools to effectively manage and streamline the acquisition of weapons systems and equipment.

Despite our efforts to reach accommodation on all issues with the administration, they have indicated they will oppose the bill. Throughout the day we will address many of the objections and I believe we have a strong case to refute these objections.

I urge my colleagues to come to the floor and participate in this debate. The Senate and the Nation have a great stake in this bill, especially now that our forces are deploying to Bosnia. Mr. President, the House passed this conference report by an overwhelming vote of 269 to 149, I urge the Senate to do no less.

...Mr. President, although we have reached agreement with Senator Leahy on the landmine provision, I would like to respond to remarks made by the Senator from Vermont regarding a provision that would impose a moratorium on landmines that was included in the Senate Defense Authorization Bill.

When the Senator from Vermont introduced his provision in the Chamber, I, along with Senators Nunn [D-GA] and Warner [R-VA], raised objections to his provision. The provision would express the sense of the Congress with regard to a treaty review conference on conventional weapons, sanction foreign governments that export antipersonnel landmines, and it would impose a moratorium on the defensive use of antipersonnel landmines by U.S. Armed Forces.

Mr. President, the portion of the provision that caused us [Armed Service Committee] such grave concern was that portion that would place a moratorium on U.S. Armed Forces use of antipersonnel landmines for defensive purposes.

Mr. President, the Department of Defense, the Joint Chiefs of Staff, and the Department of Justice raised objections to this provision and specifically the portion of the provision that would place a moratorium on the use of antipersonnel landmines by the U.S. Armed Forces for defensive purposes.

Specifically, DOD and the Joint Chiefs of Staff strongly opposed the provision because it would have a detrimental impact on the ability of the military forces to protect themselves and require the removal of mine fields emplaced in demilitarized zones. The Department of Justice opposed the inclusion of this provision because it is their view that it is a serious infringement on the

President's authority as Commander in Chief, stating, "... the Congress may decide upon the weapons available to the President, it may not dictate how those weapons are to be used in military operations."

Throughout the conference the House objected to this provision. The Senate defended the provision of the Senator from Vermont. At the same time, there were discussions with the House of the need to obtain a report from the Joint Chiefs of Staff on the impact of a moratorium on the defensive use of antipersonnel and antitank mines. Additionally, the House asked that prior to the implementation of a moratorium, that the Secretary of Defense certify that the moratorium would not adversely affect U.S. military capabilities, and that there were adequate substitutes.

Mr. President, I would point out that the Senator's provision is in the fiscal year 1996 foreign operations appropriations conference report. After the foreign operations appropriations conference report was agreed to, with this provision in it, the Senator from Vermont came to me and asked that the committee drop his provision from the Defense bill. Based on his request, the Senate conferees dropped the landmine moratorium provision from the bill. However, the committee retained the report requirement. I do not understand why the Senator from Vermont would not want to have a report submitted to the Congress about the impact of his provision, or, for that matter, why he would not want assurances from the Secretary of Defense that his provision would not detrimentally impact on the ability of the U.S. Armed Forces to defend themselves.

Mr. President, in his remarks on the Senate floor on the deployment of United States Armed Forces to Bosnia, the Senator from Vermont raised concerns about the great number of landmines that are in and around Bosnia. I might point out that this conference report contains \$20 million for humanitarian demining activities, and \$20 million that would provide for advanced detection systems to find mines, so they do not pose such a great threat to our Armed Forces, and the forces of our allies, as well as innocent women and children. These provisions would be lost if the conference report is not adopted ... I hope common sense will prevail in this matter and that the Senate will approve this conference report. Mr. President, I yield the floor and I suggest the absence of a quorum.

**Mr. Leahy (D-VT)** - Mr. President, I am pleased that the chairman of the Armed Services Committee, Senator Thurmond, and the ranking Democratic member, Senator Nunn, and I have reached an agreement that permits this bill to be voted on today and sent to the President. I intend to vote against the bill for a number of reasons-arms control and others. But I do not want to hold up any further action on it. I am not going to take the Senate's time to repeat the contents of the agreement. It speaks for itself. It is of critical importance, because the provision that will be deleted from the bill, or reversed in the next Defense authorization bill, would have the effect of undermining an amendment that passed the Senate by a vote of 67-27. It is an amendment that has been agreed to by the House in the fiscal year 1996 foreign operations conference report.

For the past 3 years, I have been trying to get the U.S. Government, and other governments, to act to stop the proliferation and use of antipersonnel landmines. There has been remarkable

progress. In the past 9 months, several NATO countries took steps far exceeding those called for in the Leahy amendment. Nineteen countries have urged an immediate, total ban on these weapons. This was unheard of, even unthought-of, 10 years ago.

The Leahy amendment falls short of that, but it would be a step toward that goal, a goal I support and, in fact, a goal that President Clinton declared at the United Nations one year ago. I want to respond briefly to something the chairman of the Armed Services Committee said yesterday. He said my amendment would "impose a moratorium on the defensive use of antipersonnel landmines by U.S. Armed Forces," and that it would "require the removal of minefields emplaced in demilitarized zones." I know some in the Pentagon who lobbied against my amendment may have said that, but that is not correct.

My amendment would impose a 1-year moratorium on the use of antipersonnel mines except along international borders and except in demilitarized zones, where, I stress, their use is obviously defensive. I included that exception after discussions with officials in the administration, including the Pentagon, and with foreign governments. I concluded that in these limited instances-in fixed minefields along internationally recognized borders and in demilitarized zones where everyone knows where the mines are and where civilians can be effectively excluded and compliance monitored, an exception was warranted. I am talking about places like the demilitarized zone between North and South Korea, or the border between Finland and Russia. Again, my amendment does not require the removal of these landmines. (Cong Record, 18 Dec 97: S18791-18796).

Another issue within Senator Leahy's pro-ban position concerning the global landmine crisis was the issue of humanitarian demining. He offered the following statement to his fellow Senators:

I do want to concur with the distinguished chairman of the Armed Services Committee when he said yesterday that the bill contains \$20 million for humanitarian demining activities-to remove these mines. I am glad he agrees with me about the compelling need for these funds, something I have urged in the past, in the Appropriations Committee as well as the Armed Services Committee. These are funds used to train and equip foreign personnel to remove landmines, in countries that do not have the expertise or capability to do it themselves (Cong Record, 18 Dec 97: S18791-18796).

**Excerpt From Senator Leahy Emphasizing The Significance And Value Of His Proposal Towards His Idea Of How To Solve The Landmine Crisis And Also His Opinion Of The Pentagon's Position Concerning The Use Of *Smart Mines***

**Mr. Leahy (D-VT):** We can debate all day about whether landmines have a military use. Of course they do. What weapon does not have some military use? But do they save lives? I challenge anyone in the Pentagon to prove that landmines save lives. One-third of our casualties-one-third-in Vietnam were from mines, including American mines. Our troops were casualties of their own minefields. That is up from 10 percent of what they were in World War II. A quarter of the Americans killed in the Gulf War were from mines. Twenty-six percent of American casualties in Somalia were from mines. These are the Army's own statistics ... these [landmines]

are the Saturday night specials of civil wars. We have a lot more to gain if we declare their use a war crime. My amendment is modeled after our 1992 law to halt U.S. exports of antipersonnel mines. Since we passed that law, 29 governments have stopped all or most of the exports, and others, including France, Belgium, Austria, and the Philippines have taken steps to ban their production or use of antipersonnel mines and even to destroy their stockpiles.

It is also totally consistent with what the President called for at the United Nations a year ago, when he declared the goal of the eventual elimination of antipersonnel landmines. Every day, 72 more people die or are mutilated by landmines. We need to stop talking about what we are going to do "eventually," and start doing it today. My amendment is a step toward that goal. I thank the 67 Senators, Republicans and Democrats alike, who voted for it.

The Pentagon says it did not create this problem and that halting our use of these weapons would not solve it. That kind of defeatist attitude does not belong in the Pentagon or anywhere else. Lest anyone forget, the moratorium in my amendment does not cover antitank mines or command detonated claymore mines that are used to guard a perimeter. It would not take effect for 3 years. The purpose of delaying its implementation is to give us time to go to other governments and say "we are prepared to stop this, and we want you to join us." It gives us the moral authority, and it shifts the responsibility to them. If the United States shows leadership, strong leadership, if we halt our use of these indiscriminate weapons even temporarily, it will give a tremendous boost to the global effort to ban them.

The certification in this bill, which was never debated or approved by either body, sounded innocent enough. But its effect would have been to prevent the moratorium from ever taking effect. It would have given the Pentagon a veto. Some have asked why wouldn't I want to know if the moratorium would endanger the lives of United States Armed Forces. Of course I am interested in the Pentagon's opinion. The conference report already asks for it. Even after the certification provision is deleted, per our agreement, the conference report will still contain a requirement that the Chairman of the Joint Chiefs of Staff submit a report to the congressional defense committees containing his responses to seven questions concerning a moratorium on the use of landmines. I have discussed this with Senator Thurmond, and he agrees that he will join with me in submitting some additional questions I have to the Chairman of the Joint Chiefs, for inclusion in that same report.

Mr. President, the Pentagon wants an exception for mines that automatically self-deactivate. I wish that were the solution, but it is not. Those mines are just as indiscriminate. There is no way to limit how many can be used. There is no way to get governments or rebel groups that have millions of the \$2 variety, which do not self-deactivate, to destroy them so they can replace them with more expensive, modern mines. The only way is to ban all indiscriminate, antipersonnel landmines ... we have seen photographs of our soldiers crawling on their stomachs, with sticks in their hands, trying to find where the landmines are, never knowing when they put their hand out just to brace themselves whether their arm will be blown off. That is terrible enough. But this picture is what you see in most countries. That is not a combatant. This is the typical landmine victim, a young girl with one leg gone. Her life changed forever.

Mr. President, during the Civil War, General Sherman-no great humanitarian, called landmines "a violation of civilized warfare." If President Clinton can restrain the Pentagon and my amendment becomes law, the United States will be able to show strong, moral leadership to rally others to put an end to this hideous, global curse. It will not be in time to prevent casualties of Americans or others in Bosnia, but it will save countless lives in the future ... I know of no Member of the Senate, Republican or Democrat, who feels any affection for landmines. Certainly those who served in combat know how terrifying it is to know that there may be landmines under foot. Where we diverge, some of us, is how to get rid of them. I believe that as the greatest military power, we must set an example.

There were negotiations in Vienna in September on proposals to deal with the landmine problem. It ended without agreement, partly because the United States did not exercise as strong leadership as it should have, and could have, on this issue, but also because of resistance by the armed forces of other countries. We did not push for what the President of the United States called for at the United Nations, the eventual elimination of landmines. I have been to Vienna. It is a beautiful city with luxurious accommodations. I could not help but think, if those same diplomats were to meet in a field in Cambodia and were pointed to a table several hundred yards out in the field, and told to walk out to that table, work your way out. We will give you a probe to search for mines. Work your way out through that mine-infested field and negotiate an agreement on these perfidious weapons. And when you are done, work your way back; If you have not reached agreement on the first day, the table will be in a different field on the second day, and in a different one on the third day. Mr. President, I think we probably would have an international ban on the use of indiscriminate antipersonnel landmines very, very quickly.

I am not so naive to think that there would not be some pariahs who would continue to use them. But, like chemical weapons and nerve gas and anthrax and dumdum bullets and so on, those who use them are so much the exception to the rule that they would be branded international pariahs and war criminals. Maybe then a child like this can walk in a field without losing her leg. Maybe people could put their country back together after a war. Maybe American men and women who go on humanitarian or peacekeeping missions would go with one less danger. I yield the floor.

**In Response To Senator Leahy's Passionate Oratory, The Following Reply From Senator Strom Thurmond Was Representative Of The Limited-Ban (And Pro-US Military) Position Within The US Government Towards The Global Landmine Crisis**

**Mr. Thurmond (R-SC)** - Mr. President, I do not believe that I will use the 20 minutes allotted for me to respond to Senator Leahy, as I spoke about my concerns with his landmine provision yesterday. I will, however, reiterate a number of concerns expressed by myself, and other members of the committee, as well as the Department of Defense, the Chairman of the Joint Chiefs of Staff, and the Department of Justice, with regard to the landmine provision which is no longer in the defense authorization bill, and the reporting and certification provision.

The Senator from Vermont has been a strong proponent of legislation that would eliminate anti-personnel landmines. I applaud the Senator for his efforts to make the world safer for innocent women and children who fall victim to these weapons of war used in many civil wars in the



Third World. I cannot, however, support legislative efforts that would needlessly place U.S. Armed Forces at risk. In my view, and the view of a number of my colleagues on the committee, that would be the effect of the provision that was incorporated in Senator Leahy's landmine moratorium-which I emphasize is not in the Defense authorization conference report, pursuant to Senator Leahy's request, but is in fact in the Fiscal Year 1996 Foreign Appropriations Conference Report ... the provision currently in the Defense authorization conference report would require the Chairman of the Joint Chiefs of Staff to submit a report to the congressional defense committees each April 30 for 3 years that would include the following [items]:

[1] The extent to which the defensive use of anti-personnel landmines by U.S. Armed Forces adheres to international law;

[2] the effects that a landmine moratorium on the defensive use of the current U.S. inventory of remotely delivered, self-destructing antitank systems, antipersonnel landmines, and antitank mines;

[3] the reliability of self-destructing antipersonnel and antitank mines in the U.S. inventory;

[4] the cost of clearing the antipersonnel currently protecting our naval station in Guantanamo Bay, Cuba and other United States installations;

[5] the cost of replacing those antipersonnel mines with substitutes and the level of protection provided by the substitutes;

[6] the extent to which the defensive use of antipersonnel and antitank landmines are a source of civilian casualties around the world and the extent to which the United States and the Department of Defense have contributed to alleviating the illegal and indiscriminate use of these munitions;

[7] the impact or effect of the moratorium on U.S. Armed Forces during operations other than war;

[8] the provision would require the Secretary of Defense to certify that a legislated moratorium would not adversely affect U.S. Armed Forces defensive capabilities and that they have adequate substitutes.

The Department of Defense, the Joint Chiefs of Staff, and the Department of Justice have raised objections to the Senator's provision, and particularly to the implementation of a moratorium on the use of antipersonnel landmines by the U.S. Armed Forces for defensive purposes because of its detrimental impact on the ability of the military forces to protect themselves.

The Department of Justice also believes that the provision would seriously infringe on the President's constitutional authority as Commander in Chief on how weapons are to be used in military operations ... as I stated yesterday, I do not understand why the Senator from Vermont

would not want this information. Certainly, he would want to know that the moratorium would not seriously risk or endanger the lives the U.S. Armed Forces who are to be sent out in to situations where their very lives are at stake, with the necessary munitions and weapons to defend themselves (Congressional Record, 19 Dec 95: S18856-18902).

APPENDIX F  
GENERAL EXCHANGE OF VIEWS

**Selected Delegation Excerpts From The *General Exchange Of Views* Presented On The First And Last Days Of The 2nd Session, As Offered In The *Summary Reports* Of The 9<sup>th</sup> And 10<sup>th</sup> Meetings**

**Mr. Herby (Observer for the International Committee of the Red Cross [ICRC])** - said that, although the meeting was nominally a meeting on technical issues, the provisions under discussion, namely articles 2 to 6 of Protocol II and its technical annex, lay at the very heart of the land-mine regime. In the opinion of the [ICRC], the problem of anti-personnel mines would not be solved by the introduction of technical specifications on their manufacture, but only by a total ban. None the less, a number of specific comments on technical issues were called for.

The definition of an anti-personnel land-mine had to be clear and unambiguous and there was no reason why it should differ from the definition of a mine, other than by making it clear that the intended victim was a person. In his view the introduction of the word "primary" in article 2, paragraph 3, of the President's [rolling] text weakened the definition, and therefore the Protocol. It made for uncertainty, which was detrimental to the legal regime governing the use of anti-personnel land-mines, which should not be allowed to escape the restrictions of the Protocol simply because they could also be used for another purpose.

It was clear that the reliability of self-destructing and self-neutralizing mechanisms had to be assured, not only for humanitarian and environmental reasons, but also because mines could severely hamper a country's recovery from armed conflict. So far, the Conference had not discussed how the reliability of such systems was to be demonstrated. A major danger of such mines was that, since they would be considered relatively safe, they could be used in large quantities and without mapping, a practice that could effectively prevent large areas of land from being used. The grace period for the introduction of such mechanisms should be as short as possible, as any delay would add to the appalling figure of approximately 24,000 new victims each year. He also reiterated [the ICRC's] concern that the present formulation of article 5 of the President's [rolling] text continued to allow so-called "dumb" mines to be laid in unfenced and unmarked areas during times of direct enemy military action. The formulation undermined the entire purpose of the proposed new regime and, if they were adopted as they stood, the proposed amendments would scarcely change the present situation (UNGA, 15 Jan 1996: 4 -5).

**Mr. Goose (Observer for Human Rights Watch)** - speaking on behalf of the NGO Coordinating Committee, said that it was impossible for delegates to ignore the growing momentum of the International Campaign to Ban Land-mines, which mobilized Governments, international agencies, non-governmental organizations and other components of society at large. Recent actions had demonstrated the growing realization that the technological approach at the heart of many of the proposed amendments to Protocol II would be inadequate, and perhaps counterproductive, in solving the global land-mines crisis.

The willingness of more and more countries to renounce the use of anti-personnel land-mines also challenged the questionable claim that they were a military necessity and that it was pointless to seek a total ban. Governments should discuss the issue seriously, at length and also openly, so that their citizens could see what the position of the authorities was. The adoption of section D of General Assembly resolution 49/75 meant that nearly every country in the world had endorsed the eventual elimination of anti-personnel land-mines. The Campaign called on nations to move beyond paying lip service to that objective and to establish a timetable for banning those insidious weapons. He called on those nations that had supported an immediate total ban on anti-personnel mines to form a working group to devise, coordinate and implement steps that would lead to a comprehensive ban on such weapons (UNGA, 15 Jan 1996: 6).

**Ms. Arias (Observer for Colombia)** - speaking on behalf of the members of the Non-Aligned Movement, drew the attention to the final document of the Eleventh Summit of Heads of State and Government of the Non-Aligned Movement, in which the non-aligned countries had expressed deep concern at the serious humanitarian problem caused by the presence of unexploded mines and other devices and at the large number of civilian victims. The Heads of State or Government had also expressed their concern at the indiscriminate use of anti-personnel mines, something which caused countless civilian victims, in violation of international humanitarian law. They had taken note of the decision by some countries to adopt a moratorium on the production of certain types of land-mines, and also of the most recent achievements of the Review Conference.

They had reiterated their support for the United Nations Voluntary Trust Fund for Assistance in Mine Clearance and had requested that countries which exported mines should, in particular, contribute to the Fund. Moreover, they had expressed the hope that the present resumed session would adopt additional measures on the prohibition and use of certain types of anti-personnel mines, together with further limitations and restrictions on the use of the weapons covered by the Convention, as well as specific measures to ensure full and unhindered access to the equipment and technology necessary to eliminate mines (UNGA, 15 Jan 1996: 6 - 7).

**Mr. Moher (Canada)** - Canada had expressed its firm belief, on 26 September 1995 at Vienna, that the objective of the international community should be the elimination of anti-personnel land-mines. Canada had also recognized that it would take considerable time to achieve that objective. On 17 January 1996, the Canadian Minister of Foreign Affairs [André Ouellet] and the Minister of Defence [David Collenette] had jointly announced that Canada had declared a comprehensive unilateral moratorium on the production, export and operational use of anti-personnel land-mines [D FA/ITC, 17 Jan 1996]. That decision had been carefully considered and Canada had weighed up the military utility of those weapons and the humanitarian consequences of their use.

For decades, the use of land-mines had been a part of Canada's military doctrine. Furthermore, over the years, Canada had acquired often painful experience of peace-keeping and demining throughout the world, valuable experience that would continue to be used. Canada's stocks of anti-personnel land-mines would now be used to train mine-clearance specialists. Canada was not alone in reaching the conclusion that a moratorium was possible and hoped that many other

countries would follow suit. It would, moreover, continue its efforts to promote universal adherence to new international norms concerning the prohibition and restricted use, and ultimate elimination, of anti-personnel land-mines (UNGA, 31 Jan 1996: 2).

**Mr. Goose (Observer for Human Rights Watch)** - speaking on behalf of the International Campaign to Ban Landmines [ICBL], said that tireless efforts had been made at the Conference during the past week, but they had been misguided: there was no technical solution to the tragedy of the use of land-mines. The only genuine solution was a total ban. Almost all nations had accepted that ultimate goal, although it had become perfectly clear that many Governments had no intention of directing their efforts to that end. They preferred to content themselves with pursuing complicated new restrictions on the use and transfer of land-mines. Defense specialists continued to stress the military value of those weapons and diplomats did their best to accommodate them.

Governments still asserted the need to be satisfied with a step-by-step approach to the problem. It was difficult to put that message across to the 70 persons who were wounded every day by land-mines and would perhaps never take a step again. If such an approach had to be adopted, it should at least quickly and unfailingly lead to a ban. The International Campaign strongly supported the first step taken by some 45 countries which had declared a halt to the export of anti-personnel mines. Countries should continue along that path and suspend or prohibit the production and use of anti-personnel mines.

The [ICBL] would continue to encourage nations to ratify the Convention so as to promote measures that would lead to a ban. The Review Conference had so far made little practical progress, although it had made Governments and public opinion aware of the scale of the land-mine problem. It was to be hoped that Governments and agencies other than States would, as a result, appreciate the need strictly to adhere to international law with regard to land-mines, which had not been the case in the past. However, compliance with what everyone hoped would be an improved Protocol II should not simply reduce the civilian toll. It should also entail no use of anti-personnel land-mines, because they were indiscriminate and failed the proportionality test: the negative impact on civilians far exceeded the military benefit.

The participants in [ICBL] were disturbed to note that the positions of most countries had advanced little since the Vienna part of the session, at which they had applauded the decision to adjourn rather than compromise further on a very bad protocol. However, NGOs did not measure progress in the effort to ban land-mines by the length of the life-span or the reliability factor of a self-destructing or self-deactivating mechanism. Progress was the announcement by the Government of Canada of a prohibition on the production, transfer or use of anti-personnel land-mines, the statement by Switzerland in support of a total and immediate ban on those weapons and the similar announcements made by the Philippines, Uruguay, New Zealand, Mozambique, Denmark and Austria. The total number of States that supported a ban was 22. Those States were prepared to begin a coordinated effort at the governmental level to achieve the objective. It was to be hoped that their number would continue to increase rapidly, thereby changing the nature of the debate, so that technical issues would be set aside in order to focus on the only possible humanitarian solution, which was a total ban on land-mines (UNGA, 31 Jan 1996: 4-5).

APPENDIX G  
THE "OPEN LETTER TO PRESIDENT CLINTON"  
THAT APPEARED IN THE NEW YORK TIMES ON 3 APR 1996

Dear Mr. President,

We understand that you have announced a United States goal of the eventual elimination of antipersonnel landmines. We take this to mean that you support a permanent and total international ban on the production, stockpiling, sale and use of this weapon. We view such a ban as not only humane, but also militarily responsible.

The rationale for opposing antipersonnel landmines is that they are in a category similar to poison gas; they are hard to control and often have unintended harmful consequences (sometimes even for those who employ them). In addition, they are insidious in that their indiscriminate effects persist long after hostilities have ceased, continuing to cause casualties among innocent people, especially farmers and children.

We understand that: there are 100 million landmines deployed in the world. Their presence makes normal life impossible in scores of nations. It will take decades of slow, dangerous and painstaking work to remove these mines. The cost in dollars and human lives will be immense. Seventy people will be killed or maimed today, 500 this week, more than 2,000 this month, and more than 26,000 this year, because of landmines.

Given the wide range of weaponry available to military forces today, antipersonnel landmines are not essential. Thus, banning them would not undermine the military effectiveness or safety of our forces, nor those of other nations.

The proposed ban on antipersonnel landmines does not affect antitank mines, nor does it ban such normally command-detonated weapons as Claymore 'mines,' leaving unimpaired the use of those undeniably militarily useful weapons.

Nor is the ban on antipersonnel landmines a slippery slope that would open the way to efforts to ban additional categories of weapons, since these mines are unique in their indiscriminate, harmful residual potential.

We agree with and endorse these views, and conclude that you as Commander-in-Chief could responsibly take the lead in efforts to achieve a total and permanent international ban on the production, stockpiling, sale and use of antipersonnel landmines. We strongly urge that you do so (NY Times, 1996).

APPENDIX H  
GENERAL EXCHANGE OF VIEWS

**Selected Delegation Excerpts from the *General Exchange of Views*, As Included In the *Summary Reports* of the 11<sup>th</sup> And 12<sup>th</sup> Meetings That Took Place on Monday, 22 Apr 1996 and Tuesday, 30 Apr 1996, Respectively**

**Mr. Sommaruga (President/Observer for the International Committee of the Red Cross [ICRC])** - emphasized that the Review Conference and its preparatory process had already played an indispensable role in focusing government attention on the need for action to stop the killing and maiming caused by land-mines. The process had been a catalyst for the review by many Governments of their policies on the production, use and transfer of those devices. Eight States had suspended or renounced the use of anti-personnel mines by their own armed forces and the number of States supporting their total prohibition had risen to 29 since Vienna. Those actions reflected a clear trend towards the complete prohibition of anti-personnel mines. He urged Governments to do their utmost to take additional national and regional steps to ensure that anti-personnel mines were no longer produced, used or transferred.

While the Conference had focused on strengthening restrictions on the use of anti-personnel mines, it appeared to be about to adopt a definition which would introduce a dangerous ambiguity by referring to a weapon "primarily designed to be exploded by the presence, proximity or contact of a person." If that definition were adopted, any other achievements of the Conference could in time be subverted by the possible abuse to which it might lead. If a munition was designed to be used as an anti-personnel mine as well as for some other purpose, it should clearly be considered an anti-personnel mine and be regulated as such. Future technology seemed likely to lead to smaller and cheaper mines with both anti-personnel and anti-tank characteristics. In ICRC's view, anti-personnel mines should be defined as those "designed to be exploded by the presence, proximity or contact of a person". The introduction of ambiguity into that crucial definition could over time weaken the protections against anti-personnel mines which the Conference was mandated to strengthen.

Referring to the other issues which ICRC considered to be important at the current stage of negotiations, Mr. Sommaruga said that only the complete prohibition of anti-personnel mines would be effective; if that could not be achieved by consensus in the Conference, States should consider taking unilateral action as a means of fulfilling their humanitarian obligation to protect their own population and territory in the event of armed conflict. A recent ICRC study on the military use and effectiveness of anti-personnel mines had highlighted the difficulty of using those weapons according to legal and doctrinal norms and the fact that their effectiveness was limited.

In keeping with existing moratoria in most mine-producing countries, the transfer of anti-personnel mines should be prohibited within the framework of the Convention. Provisions on transfers adopted by the Conference should be as far-reaching as possible so as not to constitute a retreat from current practice.

Mr. Sommaruga noted that other amendments should enter into force in the shortest possible time. Transition periods of years or decades could compound the land-mine crisis. In order to protect civilians and humanitarian workers, anti-tank mines must be made detectable and anti-handling devices must not be permitted. The strongest possible protection should be provided, under draft article 12, to missions of humanitarian organizations as an expression of the commitment States had made, when they had acceded to the Geneva Conventions and their Additional Protocols, to providing access to war victims. The scope of the Convention must be extended to non-international armed conflicts and effective measures for its implementation must be added. Future Review Conferences should be held on a regular basis every five years to ensure further the development and effective implementation of the Convention. Recent actions by States had demonstrated that neither the public conscience, Parliaments nor Governments lacked the means to act with regard to land-mines. The Review Conference had both the opportunity and a moral obligation to contribute to ending the scourge, as it had done with the threat of blinding laser weapons (UNGA, 22 Apr 1996: 3-4).

**Baron Guillaume (Belgium)** - said that public opinion expected the current session of the Conference to provide at least a partial solution to the problems caused by the proliferation of anti-personnel mines. The scope of the Convention must be extended to cover non-international armed conflicts; the ambiguity of the text under discussion appeared to be the result of ulterior motives in contradiction with the officially stated goal. And despite the enormous stocks of undetectable anti-personnel mines and the security issues at stake, all anti-personnel mines must be made detectable. The wording of the current text, which allowed for a period of transition which might be measured in decades, was unacceptable. The revised text must also include as general as possible a prohibition of the transfer of anti-personnel mines. While his country did not underestimate the importance of a strengthened version of Protocol II, it considered that the true solution was the total and universal elimination of anti-personnel mines and called for a universal convention on their prohibition (UNGA, 22 Apr 1996: 4-5).

**Mr. Walker (Australia)** - said that, in response to widespread domestic and international concern, his Government had reviewed its policy on anti-personnel mines. It had decided to support a global ban on the use, transfer, production and stockpiling of such mines and had unilaterally suspended their operational use by the Australian Defence Force except in the case of a threat to the country's security where failure to deploy such mines would result in additional Australian casualties. Australia did not produce and would not export anti-personnel mines and its Defence Force would retain stocks of such mines for training and research purposes only. While Australia had never used anti-personnel mines except in conformity with international legal and humanitarian norms, it now considered that the only sane response was to eliminate them as a weapon of war. Pending a global ban, it urged States parties to drop their demands for long phase-in periods for new obligations and to endorse mandatory perimeter marking for mines which did not comply with the proposed new standards. It hoped that other countries would support a total ban and that Governments would adopt concrete unilateral measures as an example to other countries (UNGA, 22 Apr 1996: 5).

**Mr. Wang Jon (China)** - said that the international community should take urgent measures to reduce civilian casualties and suffering caused by the irresponsible use of anti-



personnel land-mines. His Government would exercise the utmost restraint and strict control on their export. Pending the entry into force of the revised Protocol, it would implement a moratorium on the export of those mines which were not in conformity with its technical specifications on detectability, self-destruction and self-deactivation mechanisms and would ban the export of booby-traps (UNGA, 22 Apr 1996: 6).

Mr. Hwang Yong Shik (South Korea, Republic of) - said that the countries most seriously affected by anti-personnel land-mines were usually those with the fewest available resources for demining. As a token of its support of the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, his Government had made a voluntary contribution of US\$ 100,000. It planned further to extend its one-year export moratorium on anti-personnel land-mines, which had first been announced on 28 September 1995. Although his country was not yet a party to the Convention because of its unique security concerns, it had shown great interest in efforts to strengthen Protocol II and was seriously considering its accession to the amended Convention in the near future.

The South Korean government was basically in favour of the proposals in the "President's text" for further restrictions on the use of landmines, providing that several remaining issues were resolved at the current session. Careful consideration should be given to balancing humanitarian objectives with the use of land-mines for defense purposes. He stressed the importance of technological assistance and technology transfer in enabling States to comply with the provisions of the Protocol. Unless an appropriate arrangement on that matter was worked out, many States lacking the relevant technological resources would be reluctant to accept the obligations of a strengthened Protocol II, regardless of their humanitarian concerns. The new Protocol should also include a credible and effective verification mechanism for ensuring compliance (UNGA, 22 Apr 1996: 6).

**Mr. Krylov (Russian Federation)** - said that draft Protocol II embodied the new concept of moving within a reasonable period of time from "long lived" mines to those with a limited service life and, hence, to more selective and humane ones. He also pointed out that the temptation of raising the requirements in the Protocol, particularly in the military sphere, should be resisted so as to avoid frightening away potential parties to the Convention. A maximalist approach would destroy the work which had already been done (UNGA, 22 Apr 1996: 7).

**Ms. Williams (International Campaign to Ban Landmines [ICBL])** - said that, although the Campaign's goal - an immediate, complete ban on anti-personnel mines - had been called "Utopian" when it had begun its work in 1991, its call for a ban had now been joined by 30 countries, 450 NGOs, numerous organizations and important religious and political leaders. While it recognized the importance of the review process, without which such dramatic progress might not have been made, it was discouraged that the changes to the Convention were not likely to be more far-reaching and immediate. Since the end of the first session of the Review Conference in October 1995, more than 13,700 people had been killed and maimed throughout the world by land-mines. She invited delegations and NGOs to view the display of photographs of those victims, a "Wall of Remembrance" to those who had been and those who would inevitably become victims of landmines.

A plan under consideration by her country, the United States, would "phase out" the use of landmines by the year 2010, but, during that same period, 390,000 more people would be killed or maimed by them. How many more people would fall victim before the international community had banned anti-personnel mines? For those whose lives had been destroyed by landmines, it was too late. But what was to happen in Geneva over the following two weeks was important. Whatever the outcome in Geneva, however, Governments would make a difference; the momentum of change had begun. She hoped the international community understood that the [ICBL] would not end its work until anti-personnel land-mines had been removed from the arsenals of the planet (UNGA, 22 Apr 1996: 11).

APPENDIX I  
AMENDED MINES PROTOCOL II

**AMENDED PROTOCOL ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF  
MINES, BOOBY-TRAPS AND OTHER DEVICES ANNEXED 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 (THE CONVENTION ON  
CONVENTIONAL WEAPONS – CCW)**

**Article I - Scope of Application**

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. This Protocol shall apply, in addition to situations referred to in Article I of this Convention, to situations referred to in Article 3 common to the Geneva Conventions of 12 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 armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply the prohibitions and restrictions of this Protocol.
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", provided that they are used in accordance with Article 5 and other relevant Articles of this Protocol.
3. "Anti-personnel mine" means a mine primarily 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 including improvised explosive devices designed to kill, injure or damage and which are actuated manually, 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 of this Article.
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 of mines. "Phoney minefield" means an area free of mines that simulates a minefield. The term "minefield" includes phoney minefields.
9. "Recording" means a physical, administrative and technical operation designed to obtain, for the purpose of registration in official records, all available information facilitating the location of minefields, mined areas, mines, booby-traps and other devices.
10. "Self-destruction mechanism" means an incorporated or externally attached automatically-functioning mechanism which secures the destruction of the munition into which it is incorporated or to which it is attached.
11. "Self-neutralization mechanism" means an incorporated automatically-functioning mechanism which renders inoperable the munition into which it is incorporated.
12. "Self-deactivating" means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example, a battery, that is essential to the operation of the munition.
13. "Remote control" means control by commands from a distance.

14. "Anti-handling device" means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with the mine.

15. "Transfer" involves, in addition to the physical movement of mines into or from national territory, the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced mines.

### **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 High Contracting 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, destroy or maintain them as specified in Article 10 of this Protocol.

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

4. Weapons to which this Article applies shall strictly comply with the standards and limitations specified in the Technical Annex with respect to each particular category.

5. It is prohibited to use mines, booby-traps or other devices which employ a mechanism or device specifically designed to detonate the munition by the presence of commonly available mine detectors as a result of their magnetic or other non-contact influence during normal use in detection operations.

6. It is prohibited to use a self-deactivating mine equipped with an anti-handling device that is designed in such a manner that the anti-handling device is capable of functioning after the mine has ceased to be capable of functioning.

7. 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 or civilian objects.

8. 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. In case of doubt as to whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used; 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.

9. 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 are not to be treated as a single military objective.

10. 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 mines upon the local civilian population for the duration of the minefield;

(b) possible measures to protect civilians (for example, 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.

11. 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.

#### **Article 4 - Restrictions on the Use Of Anti-Personnel Mines**

It is prohibited to use anti-personnel mines which are not detectable, as specified in paragraph 2 of the Technical Annex.

#### **Article 5 - Restrictions on the Use of Anti-Personnel Mines Other than Remotely-Delivered Mines**

1. This Article applies to anti-personnel mines other than remotely-delivered mines.

2. It is prohibited to use weapons to which this Article applies which are not in compliance with the provisions on self-destruction and self-deactivation in the Technical Annex, unless:

(a) such weapons are placed within a perimeter-marked area which 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) such weapons are cleared before the area is abandoned, unless the area is turned over to the forces of another State which accept responsibility for the maintenance of the protections required by this Article and the subsequent clearance of those weapons.

3. A party to a conflict is relieved from further compliance with the provisions of sub-paragraphs 2 (a) and 2 (b) of this Article 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 that party regains control of the area, it shall resume compliance with the provisions of sub-paragraphs 2 (a) and 2 (b) of this Article.

4. If the forces of a party to a 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.

5. All feasible measures shall be taken 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. Weapons to which this Article applies which propel fragments in a horizontal arc of less than 90 degrees and which are placed on or above the ground may be used without the measures provided for in sub-paragraph 2 (a) of this Article for a maximum period of 72 hours, if:

(a) they are located in immediate proximity to the military unit that emplaced them; and

(b) the area is monitored by military personnel to ensure the effective exclusion of civilians.

#### **Article 6 - Restrictions on the Use of Remotely-Delivered Mines**

1. It is prohibited to use remotely-delivered mines unless they are recorded in accordance with sub-paragraph I (b) of the Technical Annex.

2. It is prohibited to use remotely-delivered anti-personnel mines which are not in compliance with the provisions on self-destruction and self-deactivation in the Technical Annex.

3. It is prohibited to use remotely-delivered mines other than anti-personnel mines, unless, to the extent feasible, they are equipped with an effective self-destruction or self-neutralization mechanism and have a back-up self-deactivation feature, which is designed so that the mine will no longer function as a mine when the mine no longer serves the military purpose for which it was placed in position.

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

#### **Article 7 - 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;
- (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 the 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; or
- (j) animals or their carcasses.

2. It is prohibited to use booby-traps or other devices in the form of apparently harmless portable objects which are specifically designed and constructed to contain explosive material.

3. Without prejudice to the provisions of Article 3, it is prohibited to use weapons to which this Article applies in any city, town, village or other area containing a similar concentration of civilians in which combat between ground forces is not taking place or does not appear to be imminent, unless either:

- (a) they are placed on or in the close vicinity of a military objective; or
- (b) measures are taken to protect civilians from their effects, for example, the posting of warning sentries, the issuing of warnings or the provision of fences.



## **Article 8 - Transfers**

1. In order to promote the purposes of this Protocol, each High Contracting Party:

- (a) undertakes not to transfer any mine the use of which is prohibited by this Protocol;
- (b) undertakes not to transfer any mine to any recipient other than a State or a State agency authorized to receive such transfers;
- (c) undertakes to exercise restraint in the transfer of any mine the use of which is restricted by this Protocol. In particular, each High Contracting Party undertakes not to transfer any anti-personnel mines to States which are not bound by this Protocol, unless the recipient State agrees to apply this Protocol; and
- (d) undertakes to ensure that any transfer in accordance with this Article takes place in full compliance, by both the transferring and the recipient State, with the relevant provisions of this Protocol and the applicable norms of international humanitarian law.

2. In the event that a High Contracting Party declares that it will defer compliance with specific provisions on the use of certain mines, as provided for in the Technical Annex, sub-paragraph I (a) of this Article shall however apply to such mines.

3. All High Contracting Parties, pending the entry into force of this Protocol, will refrain from any actions which would be inconsistent with sub-paragraph I (a) of this Article.

## **Article 9 -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 to a conflict, who shall, without delay after the cessation of active hostilities, take all necessary and appropriate measures, including the use of such information, to protect civilians from the effects of minefields, mined areas, mines, booby-traps and other devices in areas under their control.

At the same time, they shall also make available to the other party or parties to the conflict 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; provided, however, subject to reciprocity, where the forces of a party to a conflict are in the territory of an adverse party, either party may withhold such information from the Secretary-General and the other party, to the extent that security interests require such withholding, until neither party is in the territory of the other. In the latter case, the information withheld shall be disclosed as soon as those security interests permit. Wherever possible, the parties to the conflict shall seek, by mutual agreement, to provide for the release of such

information at the earliest possible time in a manner consistent with the security interests of each party.

3. This Article is without prejudice to the provisions of Articles 10 and 12 of this Protocol.

### **Article 10 -Removal of Minefields, Mined Areas, Mines, Booby-Traps and Other Devices and International Cooperation**

1. Without delay after the cessation of active hostilities, 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 5 of this Protocol.

2. High Contracting Parties and parties to a conflict bear such responsibility with respect to minefields, mined areas, mines, booby-traps and other devices in areas under their control.

3. 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 party in control of the area pursuant to paragraph 2 of this Article, to the extent permitted by such party, technical and material assistance necessary to fulfil such responsibility.

4. 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, including, in appropriate circumstances, the undertaking of joint operations necessary to fulfil such responsibilities.

### **Article 11 - Technological Cooperation and Assistance**

1. Each High Contracting Party undertakes 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. In particular, High Contracting Parties shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.

2. Each High Contracting Party undertakes to provide information to the database on mine clearance established within the United Nations System, especially information concerning various means and technologies of mine clearance, and lists of experts, expert agencies or national points of contact on mine clearance.

3. Each high Contracting Party in a position to do so shall provide assistance for mine clearance through the United Nations System, other international bodies or on a bilateral basis, or contribute to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance.

4. Requests by High Contracting 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 submitted to the Secretary-General of the United Nations, who shall transmit them to all High Contracting Parties and to relevant international organizations.

5. In the case of requests to the United Nations, the Secretary-General of the United Nations, within the resources available to the Secretary-General of the United Nations, may take appropriate steps to assess the situation and, in cooperation with the requesting High Contracting Party, determine the appropriate provision of assistance in mine clearance or implementation of the Protocol. The Secretary-General may also report to High Contracting Parties on any such assessment as well as on the type and scope of assistance required.

6. Without prejudice to their constitutional and other legal provisions, the High Contracting Parties undertake to cooperate and transfer technology to facilitate the implementation of the relevant prohibitions and restrictions set out in this Protocol.

7. Each High Contracting Party has the right to seek and receive technical assistance, where appropriate, from another High Contracting Party on specific relevant technology, other than weapons technology, as necessary and feasible, with a view to reducing any period of deferral for which provision is made in the Technical Annex.

## **Article 12 - Protection from the Effects of Minefields, Mined Areas, Mines, Booby-Traps and Other Devices**

### 1. Application

(a) With the exception of the forces and missions referred to in sub-paragraph 2(a) (i) of this Article, this Article applies only to missions which are performing functions in an area with the consent of the High Contracting Party on whose territory the functions are performed.

(b) The application of the provisions of this Article to parties to a conflict which are not High Contracting Parties shall not change their legal status or the legal status of a disputed territory, either explicitly or implicitly.

(c) The provisions of this Article are without prejudice to existing international humanitarian law, or other international instruments as applicable, or decisions by the Security Council of the United Nations, which provide for a higher level of protection to personnel functioning in accordance with this Article.

### 2. Peace-keeping and certain other forces and missions

(a) This paragraph applies to:

(i) any United Nations force or mission performing peace-keeping, observation or similar functions in any area in accordance with the Charter of the United Nations;

(ii) any mission established pursuant to Chapter VIII of the Charter of the United Nations and performing its functions in the area of a conflict.

(b) Each High Contracting Party or party to a conflict, if so requested by the head of a force or mission to which this paragraph applies, shall:

(i) so far as it is able, take such measures as are necessary to protect the force or mission from the effects of mines, booby-traps and other devices in any area under its control;

(ii) if necessary in order effectively to protect such personnel, remove or render harmless, so far as it is able, all mines, booby-traps and other devices in that area; and

(iii) inform the head of the force or mission of the location of all known minefields, mined areas, mines, booby-traps and other devices in the area in which the force or mission is performing its functions and, so far as is feasible, make available to the head of the force or mission all information in its possession concerning such minefields, mined areas, mines, booby-traps and other devices.

### 3. Humanitarian and fact-finding missions of the United Nations System

(a) This paragraph applies to any humanitarian or fact-finding mission of the United Nations System.

(b) Each High Contracting Party or party to a conflict, if so requested by the head of a mission to which this paragraph applies, shall:

(i) provide the personnel of the mission with the protections set out in sub-paragraph 2(b) (i) of this Article; and

(ii) if access to or through any place under its control is necessary for the performance of the mission's functions and in order to provide the personnel of the mission with safe passage to or through that place:

(aa) unless on-going hostilities prevent, inform the head of the mission of a safe route to that place if such information is available; or

(bb) if information identifying a safe route is not provided in accordance with sub-paragraph (aa), so far as is necessary and feasible, clear a lane through minefields.

### 4. Missions of the International Committee of the Red Cross

(a) This paragraph applies to any mission of the International Committee of the Red Cross performing functions with the consent of the host State or States as provided for by the Geneva Conventions of 12 August 1949 and, where applicable, their Additional Protocols.

(b) Each High Contracting Party or party to a conflict, if so requested by the head of a mission to which this paragraph applies, shall:

(i) provide the personnel of the mission with the protections set out in sub-paragraph 2(b) (i) of this Article; and

(ii) take the measures set out in sub-paragraph 3(b) (ii) of this Article.

#### 5. Other humanitarian missions and missions of enquiry

(a) Insofar as paragraphs 2, 3 and 4 above do not apply to them, this paragraph applies to the following missions when they are performing functions in the area of a conflict or to assist the victims of a conflict:

(i) any humanitarian mission of a national Red Cross or Red Crescent Society or of their International Federation;

(ii) any mission of an impartial humanitarian organization, including any impartial humanitarian demining mission; and

(iii) any mission of enquiry established pursuant to the provisions of the Geneva Conventions of 12 August 1949 and, where applicable, their Additional Protocols.

(b) Each High Contracting Party or party to a conflict, if so requested by the head of a mission to which this paragraph applies, shall, so far as is feasible:

(i) provide the personnel of the mission with the protections set out in sub-paragraph 2(b) (i) of this Article, and

(ii) take the measures set out in sub-paragraph 3(b) (ii) of this Article.

#### 6. Confidentiality

All information provided in confidence pursuant to this Article shall be treated by the recipient in strict confidence and shall not be released outside the force or mission concerned without the express authorization of the provider of the information.

#### 7. Respect for laws and regulations

Without prejudice to such privileges and immunities as they may enjoy or to the requirements of their duties, personnel participating in the forces and missions referred to in this Article shall:

(a) respect the laws and regulations of the host State; and

(b) refrain from any action or activity incompatible with the impartial and international nature of their duties.

### **Article 13 - Consultations of High Contracting Parties**

1. The High Contracting Parties undertake to consult and cooperate with each other on all issues related to the operation of this Protocol. For this purpose, a conference of High Contracting Parties shall be held annually.

2. Participation in the annual conferences shall be determined by their agreed Rules of Procedure.

3. The work of the conference shall include:

(a) review of the operation and status of this Protocol;

(b) consideration of matters arising from reports by High Contracting Parties according to paragraph 4 of this Article;

(c) preparation for review conferences; and

(d) consideration of the development of technologies to protect civilians against indiscriminate effects of mines.

4. The High Contracting Parties shall provide annual reports to the Depository, who shall circulate them to all High Contracting Parties in advance of the Conference, on any of the following matters:

(a) dissemination of information on this Protocol to their armed forces and to the civilian population;

(b) mine clearance and rehabilitation programmes;

(c) steps taken to meet technical requirements of this Protocol and any other relevant information pertaining thereto;

(d) legislation related to this Protocol;

(e) measures taken on international technical information exchange, on international cooperation on mine clearance, and on technical cooperation and assistance; and

(f) other relevant matters.

5. The cost of the Conference of High Contracting Parties shall be borne by the High Contracting Parties and States not parties participating in the work of the Conference, in accordance with the United Nations scale of assessment adjusted appropriately.

#### **Article 14 - Compliance**

1. Each High Contracting Party shall take all appropriate steps, including legislative and other measures, to prevent and suppress violations of this Protocol by persons or on territory under its jurisdiction or control.

2. The measures envisaged in paragraph I of this Article include appropriate measures to ensure the imposition of penal sanctions against persons who, in relation to an armed conflict and contrary to the provisions of this Protocol, wilfully kill or cause serious injury to civilians and to bring such persons to justice.

3. Each High Contracting Party shall also require that its armed forces issue relevant military instructions and operating procedures and that armed forces personnel receive training commensurate with their duties and responsibilities to comply with the provisions of this Protocol.

4. The High Contracting Parties undertake to consult each other and to cooperate with each other bilaterally, through the Secretary-General of the United Nations or through other appropriate international procedures, to resolve any problems that may arise with regard to the interpretation and application of the provisions of this Protocol.

#### Technical Annex

##### 1. Recording

(a) Recording of the location of mines other than remotely-delivered mines, minefields, mined areas, booby-traps and other devices shall be carried out in accordance with the following provisions:

(i) the location of the minefields, mined areas and 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 weapons 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, and 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, anti-handling devices (if any) and other relevant information on all these weapons laid. Whenever feasible the minefield record

shall show the exact location of every mine, except in row minefields where the row location is sufficient. The precise location and operating mechanism of each booby-trap laid shall be individually recorded.

(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 types of mines laid, the date and time of laying and the self-destruction time periods shall also be recorded.

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

(d) The use of mines produced after the entry into force of this Protocol is prohibited unless they are marked in English or in the respective national language or languages with the following information:

(i) name of the country of origin;

(ii) month and year of production; and

(iii) serial number or lot number.

The marking should be visible, legible, durable and resistant to environmental effects, as far as possible.

## 2. Specifications on detectability

(a) With respect to anti-personnel mines produced after 1 January 1997, such mines shall incorporate in their construction a material or device that enables the mine to be detected by commonly-available technical mine detection equipment and provides a response signal equivalent to a signal from 8 grammes or more of iron in a single coherent mass.

(b) With respect to anti-personnel mines produced before 1 January 1997, such mines shall either incorporate in their construction, or have attached prior to their emplacement, in a manner not easily removable, a material or device that enables the mine to be detected by commonly-available technical mine detection equipment and provides a response signal equivalent to a signal from 8 grammes or more of iron in a single coherent mass.

(c) In the event that a High Contracting Party determines that it cannot immediately comply with sub-paragraph (b), it may declare at the time of its notification of consent to be bound by this Protocol that it will defer compliance with sub-paragraph (b) for a period not to exceed 9 years from the entry into force of this Protocol. In the meantime it shall, to the extent feasible, minimize the use of anti-personnel mines that do not so comply.

## 3. Specifications on self-destruction and self-deactivation



(a) All remotely-delivered anti-personnel mines shall be designed and constructed so that no more than 10% of activated mines will fail to self-destruct within 30 days after emplacement, and each mine shall have a back-up self-deactivation feature designed and constructed so that, in combination with the self-destruction mechanism, no more than one in one thousand activated mines will function as a mine 120 days after emplacement.

(b) All non-remotely delivered anti-personnel mines, used outside marked areas, as defined in Article 5 of this Protocol, shall comply with the requirements for self-destruction and self-deactivation stated in sub-paragraph (a).

(c) In the event that a High Contracting Party determines that it cannot immediately comply with sub-paragraphs (a) and/or (b), it may declare at the time of its notification of consent to be bound by this Protocol, that it will, with respect to mines produced prior to the entry into force of this Protocol defer compliance with sub-paragraphs (a) and/or (b) for a period not to exceed 9 years from the entry into force of this Protocol.

During this period of deferral, the High Contracting Party shall:

(i) undertake to minimize, to the extent feasible, the use of anti-personnel mines that do not so comply, and

(ii) with respect to remotely-delivered anti-personnel mines, comply with either the requirements for self-destruction or the requirements for self-deactivation and, with respect to other anti-personnel mines comply with at least the requirements for self-deactivation.

#### 4. International signs for minefields and mined areas

Signs similar to the example attached [1] and as specified below shall be utilized in the marking of minefields and mined areas to ensure their 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

APPENDIX J  
REVIEW CONFERENCE CLOSING STATEMENTS

**Review Conference Participants' Responses From Selected Nations At The *Closing Statements* Portion Of The Review Conference On The Evening Of 3 May 1996, As Taken From The *Summary Record* Of The 14<sup>th</sup> Meeting**

**Mr. Perugini (Italy)** - speaking on behalf of the European Union, the central and eastern European countries associated with the European Union, the associated countries Cyprus and Malta, as well as the EFTA country members of the EEA (Iceland, Liechtenstein and Norway), said ... the results of the Conference were disappointing in comparison with the goals set out in the [May 1995] Joint Action of the European Union in a number of important respects. Noting that only 57 States had ratified or acceded to the [CCW], he said that the European Union would devote further efforts to achieving the universal nature of the Convention and amended Protocol II. The European Union would strive to meet the goal of the eventual elimination of anti-personnel landmines, as stated in General Assembly resolution 50/70/O (UNGA, 6 Jun 1996: 8).

**Mrs. Arias (Observer for Colombia)** - speaking on behalf of the Movement of Non-Aligned Countries and Other Observer States, welcomed the adoption at the current session of amended Protocol II and the adoption on 13 October 1995 of Protocol IV on Blinding Laser Weapons. Those were important stages in the process of strengthening international law on conventional weapons, which might encourage States to accede to the Convention and help to make it universal. She hoped that the flexibility and spirit of compromise present throughout the work of the past two weeks would mark future review conferences (UNGA, 6 Jun 1996: 9).

**Mr. Parreira (Observer for Angola)** - said that it was very unfortunate indeed that the Conference had not succeeded in taking substantial steps towards the total ban of anti-personnel land-mines. It seemed that Governments of countries producing such weapons were indifferent to the tragic consequences among the civilian population of the generalized and indiscriminate use of such weapons and that those countries, as well as those that transported such weapons, did not have the political will to amend the 1980 Convention on Certain Conventional Weapons such as anti-personnel landmines. He sincerely deplored that no feasible mechanism for verification of the implementation of the restrictions imposed on the use of anti-personnel landmines had been established and that the security and protection of civilian populations had not been safeguarded.

His delegation felt grief and frustration because the transition period agreed for the new arrangements to come into force was too long. From the humanitarian law standpoint, the revised Protocol II, with the exception of article 8, was misleading and did not at all meet the legitimate expectation of all those who were alarmed at the devastating effects of anti-personnel landmines: governmental authorities in developing countries, NGOs, religious entities, victims and their relatives

In conformity with Organization of African Unity resolutions 1593 (LXII) and 1628 (LVIII), the Government of Angola appealed to the international community to give increased support to the ongoing efforts by national institutions and non-governmental organizations responsible for

assistance to victims of anti-personnel land-mines and for mine clearance in Angola. As recommended in the above-mentioned resolutions of the Organization of African Unity, his Government supported a total prohibition of anti-personnel landmines (UNGA, 6 Jun 1996: 9).

**Mr. Moher (Canada)** - recalled that, in its opening statement to the September 1995 session of the Conference, his Government had stated that the objective of the international community should be the elimination of anti-personnel land-mines. On 17 January 1996, the Canadian Government had decided to establish an indefinite moratorium on the production and export of those devices as well as their use in battle. Canada's objective at the current session - regrettably but necessarily - was more limited, i.e. to introduce prohibitions and restrictions on those weapons in order to secure a humanitarian goal. Against that yardstick, he believed that significant progress, admittedly insufficient, had been made: the amended Protocol contained a wide range of provisions imposing new prohibitions and restrictions on anti-personnel land-mines.

Canada had devoted considerable efforts to negotiating the provision that, if anti-personnel landmines must be used by some countries in the short term, at the very least they must be detectable immediately. At the cost of having to accept a deferral period - too long in Canada's view - for the universal implementation of that provision, the Conference had collectively agreed on the principle of detectability, its implementation over a fixed time period and the non-export of undetectable mines in the interim. He drew attention to the fact that the participants in the Conference had in the Final Declaration promised their best efforts to make detectable all anti-personnel land-mines used nationally in the interim. That was modest progress, but significant humanitarian progress all the same.

Canada would continue to work along two tracks to attain its overall objective of elimination. On track one, i.e. in the context of the Convention and amended Protocol II, it would continue to press vigorously for increased restrictions and prohibitions in the short term in order to move closer to an absolute ban; it would also work with all concerned to secure the earliest possible entry into force of the amended Protocol. Track two consisted of a number of initiatives. At the United Nations General Assembly the following autumn, Canada would be putting forward a resolution calling for further concrete steps towards the elimination of anti-personnel landmines. It would forcefully advocate, in all of the regional organizations and forums to which it belonged, additional actions towards that objective.

In the Organization of American States, for example, it was pressing for the Americas to be declared an "anti-personnel mines free zone". He was pleased to confirm Canada's intention to host a meeting in Ottawa the following September for those Governments and NGOs which supported a comprehensive ban on anti-personnel landmines. He wished to acknowledge the commitment of the many non-governmental organizations which had supported the participants in the Review Conference in their difficult task.

**Mr. Sha Zukang (China)** - welcomed the significant results achieved by the Conference, especially the adoption of a protocol banning the use and transfer of blinding laser weapons. For the first time in human history, an inhumane weapon had been declared illegal and prohibited

before it had actually been used. The Conference had also adopted amended Protocol II, which strengthened restrictions on the use and transfer of land-mines and established technical specifications on the detectability, self-destruction and self-deactivation of landmines.

China had always attached the highest importance to humanitarian matters and supported the international community's efforts in that area. It had been one of the first countries to sign and ratify the CCW in 1982. At the Review Conference, the Chinese Government had solemnly declared that it would prohibit exports of booby-traps and that, pending the entry into force of the amended Protocol, it would introduce a moratorium on exports of anti-personnel mines that did not meet the technical specifications on detectability, self-destruction and self-deactivation. To guarantee the safety and economic development of the local population, the Chinese Government had carried out large-scale mine-clearance campaigns in certain border areas to eliminate land-mines left over from past wars. It had also engaged in international cooperation in mine-clearance and provided assistance to the best of its ability to other countries affected by land-mines.

While emphasizing humanitarianism and the prevention of the abuse of land-mines, the international community should also note that, in the modern world interference, in other countries' internal affairs, infringement on other countries' sovereignty and the use or threat of use of force in State-to-State relations were far from extinct. As such, land-mines remained an effective means for many countries to exercise their right of self-defense in accordance with the principles of the Charter of the United Nations. Therefore, in considering issues involving mines and other conventional weapons, a balance should be sought between humanitarian considerations and the right of self-defense of sovereign States.

**Mr. Matheson (United States of America)** - said that the revised Protocol II on landmines was a significant advance that would, if widely observed, result in a substantial decrease in civilian casualties and be an important first step towards the elimination of such mines. His country welcomed the expansion of the Protocol to include internal armed conflicts and peacetime use; the requirements relating to the detectability, self-destruction and self-deactivation of mines that were not kept within marked and protected minefields; the assignment of responsibility for the maintenance or clearance of minefields to the party that had laid the mines; the requirement that minefields should be cleared at the end of active hostilities, the improvements in recording and marking and in the protection of international forces and missions; the restrictions on transfers; and the new provisions on compliance, including the penal sanctions for violators of the Protocol and the requirement that annual meetings of States parties should be held to discuss implementation.

The revised Protocol did not include all the provisions favored by the United States, in particular, the introduction of a compliance investigation mechanism and restrictions on certain types of anti-tank mines. It also seemed excessive to allow States parties to defer compliance with certain provisions for up to nine years.

The United States welcomed the inclusion in article 8 of an obligation to refrain from any transfer of mines whose use was prohibited, notwithstanding any deferral of compliance with the

restrictions contained in articles 2 or 3 of the Technical Annex, and of a political commitment concerning such transfers. While such a commitment did not legally bind the United States or prejudice the Senate's consideration of the amended Protocol, it was his country's policy, pending the entry into force of the Protocol, to observe all of its restrictions to the fullest extent possible from the time of adoption. Moreover, although the commitment covered by article 8 applied only to anti-personnel mines, it was the policy of the United States to refrain from any transfer of non-detectable anti-tank mines as well and it encouraged other States to follow its example. It also supported the expansion of the scope of Protocol IV and would refrain from the use of the laser weapons prohibited by that Protocol.

Protocol II must be part of a broader strategy which included mine clearance, further international controls on production, transfers and stockpiles, and research on alternatives to anti-personnel land-mines and would lead to the total elimination of such mines, but it could substantially reduce the disastrous effects of the indiscriminate use of land-mines and serve as a basis for further efforts (UNGA, 9 May 1996: 3).

**Mr. Sotha (Cambodia)** - said that, while the Review Conference had made some progress, the new agreement was a very small step. Cambodia welcomed the inclusion in the Convention of protection for humanitarian mine clearance operations and the outlawing of blinding laser weapons. It thanked the donor countries which supported demining operations in Cambodia and all of the non-governmental organizations which were working in Cambodia to clear mines and were lobbying for a total ban. Over 30 countries had called for such a ban; Cambodia urged other nations to do the same and to listen to the voice of the people, who wanted no more mines, whether "smart" or "dumb" (UNGA, 9 May 1996: 4-5).

**Mr. Roethlisberger (Observer for the International Committee of the Red Cross [ICRC])** - said that, while the results of the Review Conference were modest, the Conference had at least focused the attention of Governments and their military forces on the humanitarian responsibilities involved in land-mine use and on the need for dramatic changes in their approach to those weapons. As with poison gas, the public conscience and a growing number of States had already stigmatized anti-personnel mines. Though not yet reflected in a global consensus, movement towards the elimination of those weapons had proceeded rapidly, as State after State had reviewed the balance between military utility and humanitarian concerns and announced support for a ban.

The ICRC deeply regretted that, for the first time in a humanitarian law treaty, measures had been adopted which, instead of entirely prohibiting the use of an indiscriminate weapon, both permitted its continued use and implicitly promoted the use of new models which would have virtually the same effects, at least in the short term. While it was also regrettable that the scope of the Protocol could not be extended as had been agreed at Vienna, the ICRC encouraged all States to issue a statement of understanding at the time of accession, indicating that they considered the Protocol to apply at all times.

The interpretation of the word "primarily" given by the representative of Germany and supported by a number of States had helped to make it clear that, with only one exception, mines with anti-

personnel characteristics fell within the definition of an anti-personnel mine. However, that did not solve an important humanitarian problem, namely, the use of anti-handling devices on remotely delivered anti-tank mines. Such mines would be just as dangerous to civilian populations as anti-personnel mines, the only difference being that they would usually kill their victims. States should seriously address that problem in the very near future (UNGA, 9 May 1996: 7-8).

**Ms. Walker (Handicap International)** - speaking on behalf of the International Campaign to Ban Landmines, said that the changes made as a result of the review process would not affect the lives of those living with landmines. The 1996 version of the Convention failed to meet its own standard and purpose; rather than put anti-personnel landmines outside the law, Governments and the military had labored long and hard to continue to make room in the law for anti-personnel landmines and they had succeeded. That diplomatic success was the failure of the Convention regime on landmines.

Her organization had always viewed the Review Conference as but one part of the process that would bring about a total ban on landmines. The Convention had been overtaken by the ban movement. While the amended Convention would not change the lives of landmine victims, the process itself had contributed to the momentum of the ban movement. National campaigns would step up pressure to bring reluctant countries into the pro-ban movement. The Campaign would continue to mobilize a public outcry to oppose the production, use, stockpiling or transfer of land-mines, for the public was far ahead of its own Governments, as shown by the 2.5 million signatures from people around the world calling for an immediate ban, which the Campaign had delivered to the Conference. The Campaign welcomed the initiative of Canada to convene a meeting of like-minded Governments, along with NGOs, to form a bloc within the international community to outlaw landmines (UNGA, 9 May 1996: 8).

**Mr. Channareth (ICBL, Landmine Victim)** - said that he, along with his friends from Afghanistan, Mozambique and Cambodia, had come to Geneva to put a human face on the mass suffering caused by land-mines. They were living reminders of what the power of hate could do to legs, arms and eyes. They wanted the participants in the Conference to see them because it was easy to sit inside big buildings and legalize new war toys for new-generation soldiers when they did not see the hospitals and killing fields. He called on the participants to come see for themselves and take pity on the poor (UNGA, 9 May 1996: 8).

APPENDIX K  
WHITE HOUSE PRESS CONFERENCE

**16 May 1996 Transcript**

**President Clinton** - Now, I think it is important to turn the microphone over, first to Secretary Christopher and then Secretary Perry to finish the presentation.

**Secretary Christopher** - You have just heard the president announce an important decision that will strengthen American leadership around the globe. This decision reflects our determination to eliminate these deadly instruments of terror, which claim some 500 innocent lives every week. The decision also, though, reflects America's global responsibilities and the concern that each of us has for the safety of our soldiers and the people that they protect. The land mine crisis has commanded this administration's attention from the very start. I

In 1993, the United States extended for three years our unilateral moratorium on land mine exports. In 1994, we spearheaded a successful resolution that the United Nations ban exports of the most dangerous kinds of land mines. We've provided training, equipment and funds to help those nations most threatened by mines, and today's decision will expand that assistance. In 1994, the president also dedicated our nation to the goal of eventually eliminating all anti-personnel land mines.

Today, we have a road map for achieving that objective. The president has asked me and his foreign policy team to move forward on that road map as rapidly as possible. As the president said, we will propose a resolution at the 51st General Assembly this fall calling for an international agreement to ban all forms of anti-personnel mines. We will begin to consult immediately with our allies on the best way to achieve this. One possible approach would be to proceed through the Conference on Disarmament in Geneva. That's where we succeeded in negotiating a chemical weapons convention, and that is where we're moving forward toward agreement this year on a comprehensive nuclear test ban.

I am personally determined to follow through on this commitment as soon as possible, mindful of some of the things I've seen and experiences that I've had. I saw the devastation that land mines can cause when I visited Cambodia last year. That is a nation where our demining program is saving many thousands of lives; indeed, I was proud to present to our demining team an award in Phnom Penh.

In February of this year, this problem was also brought home to me in Bosnia, where land mines pose an ever-present danger to our soldiers and other servicemen who are there. Bosnia makes it clear that these weapons do not cease to kill when peace treaties are signed and the guns of war fall silent. These anti-personnel land mines do not distinguish between civilians and combatants; indeed, they probably kill more children than soldiers. They frustrate our foreign policy goals because they make it so much harder for nations to move from conflict to reconstruction and growth. I

t's very clear to me that an international ban on land mines cannot happen without American leadership, which of course is so true of many issues in the world today. Today, the president has put America firmly behind a responsible program to rid the world of these hidden killers once and for all. And with today's announcement, I am more confident than ever that this important goal can be achieved. Thank you. Secretary Perry.

**Secretary Perry** – ... Let me talk about the anti-personnel land mines. I and all of the chiefs strongly support the president's new policy. Indeed, we recommended it to him. We are all appalled by the carnage caused each year by the millions of anti-personnel land mines that are a residue of civil wars and regional conflicts. And therefore, we seek to find a way to end this scourge. But we also are responsible for preparing and executing our nation's war plans with maximum effectiveness and minimum casualties to the U.S. forces.

This objective to eliminate anti-personnel land mines, therefore, is partially in conflict with one of our most critical war plans, namely, the war plan to defend Korea against a mass assault. North Koreans have more than a million infantry troops amassed just north of the DMZ -- the demilitarized zone. Many of these are within 50 to 100 miles of Seoul. The metropolitan area of Seoul has a population in excess of 10 million inhabitants. And therefore, our contingency war plan is designed to stop a North Korea attack before it gets to Seoul.

Today, in order to execute that war plan, it requires the use of anti-personnel mines -- indeed, almost a million of them. These are necessary to delay and to disrupt the mass infantry attack long enough for our air power to get in and be fully effective. If we simply remove those anti-personnel land mines, it is likely that North Korea could overrun Seoul before we could finally turn the invasion around. Overrunning Seoul would entail the loss of tens of thousands of soldiers and perhaps hundreds of thousands of civilians. And therefore, we see this as an unacceptable risk.

The proposed plan, therefore, that we made to the president protects the right to use anti-personnel land mines in Korea until first, the possibility that the threat of a mass infantry attack is removed or we are able to achieve alternative ways to affect our tactics of delaying and disrupting that attack. I should emphasize that we, myself and the chiefs, are all anxious to remove this exception. And we will move vigorously on both parallel paths that I have described to you so that we can remove that exception as soon as possible.

I'd like to take the opportunity now to introduce Gen. David Jones, former chief of the staff of the Air Force and former chairman of the Joint Chiefs of Staff. Dave, could you stand up for a moment so they can see you? Thank you. As you know, Gen. Jones expressed his support for the elimination of anti-personnel land mines, and we consulted very closely with Dave as we developed our new policy. And he has supported the approach that we have taken. I've invited him to come today so that he would be available to answer your questions along with myself, Secretary Christopher and the chiefs. And with that, then, I'd like to open the floor so we can entertain a few questions.



**Q** - Sir, what is the response of the administration to the assertions by nongovernmental organizations, humanitarian groups, other member states of the U.N. that the policy is still troublesome because ... whether it be dumb mines or smart mines, you still would not be able to distinguish between a combatant and a civilian and that smart mines will not address that issue?

**Secretary Perry** - It does address that issue. One has to look not only at the way the mines operate, but the way they are employed. The dumb mines are traditionally laid in the ground and left there for weeks or months or years. And it's after the war battles are over that they do their damage to civilians. Smart mines not only are self-destructing after a few hours or a few days -- depending on the nature, depending on how it's set. But even more importantly, they are not spread around indiscriminately just as a sort of general stopping of assault. They are only spread specifically to stop a particular advance that's coming. So the way of using the smart mines and their self-destruct feature dramatically changed the situation. Nevertheless, let me emphasize what the president has said. Even with that, we are prepared to give up the smart mines as part of an international agreement. And we believe that may be necessary to get the international agreement, which is a major step forward.

**Q** - Secretary Perry, could you give us an idea of the types of technologies or operational changes that could substitute for the use of mines and barrier operations and channeling?

**Secretary Perry** - There are three different categories of technology which we are working on now. The first of them, which is a bit of a digression from your question, is the technology to detect and destroy mines -- very critical. We have a major program under way in the United States, centered at Fort Belvoir [VA], for developing new technology for doing that. That has been under way for some time.

There are a dozen different techniques, some of which are in very advanced states of development. We are introducing those to our own forces. What the president has asked us to do is to also make these widely available in the international community so we get behind an effort to help eliminate and get rid of the mines -- these millions and millions of mines that are already planted. The technologies for substituting the mines, which is the question you asked, fall in two categories. The generic ways of shaping the battlefield differently than you shape it with mines. As was described, the principal purpose of the anti-personnel mines is to delay and disrupt, slow down massed infantry events. There are other ways of doing that, too, that have to do with tactics, techniques and other weapons.

That broad approach involves changes across the board in the way we fight battles-- in tactics and doctrine as well as in systems. More specifically, we can look for devices that do the specific job that anti-personnel mines do without the residual and very undesirable side effects, and the most promising techniques in that area fall in the category of nonlethal technologies -- technologies which slow and disrupt an infantry advance without killing. For a variety of reasons, we have R&D [research and development] under way in that field, and we'll continue -- under this program, we will accelerate that technology.

**Q** - Secretary Christopher, your announcement today includes a pledge to try to persuade other nations to forswear their use of mines. But isn't our own position in that regard undercut by our reserving the right to use them not only in Korea, but wherever else we consider it in our supreme national interest?

**Secretary Christopher** - Not at all; I think that what the president has done today is to give us a destination and a road map, give us an opportunity for the United States to lead. This is a balanced approach, taking into account our responsibility to get rid of land mines, but also our responsibilities for the defense in Korea. *Korea is an international operation, I remind you, a United Nations commitment* [emphasis added] It's probably the most dangerous border in the world, a unique situation.

So I don't think our leadership is going to be handicapped by this balanced approach that the president has given us. It enables the United States to lead in the confidence that we can get something done. Canada has scheduled a meeting this fall, a conference this fall in which we'll be consulting with them, and then we'll, as I said in my statement, be considering other possible fora to move this forward, particularly the Conference on Disarmament in Geneva. But I think the fact that the United States is prepared to take the lead here, to try to organize it internationally, will in the long run make the difference.

**Secretary Perry** - I would only add to that, that we do seek to remove the exception for Korea as soon as practical.

**Q** - Secretary Christopher, just following up on that, on the Korean Peninsula, Secretary Perry mentioned that the United States will move vigorously on the parallel paths of finding alternatives tactically to halt the invasion, and also to remove the threat. I wonder, since the president's declaration on Cheju Island with Kim Young Sam, has there been any progress in getting the North Koreans on board, the four-party talks idea?

**Secretary Christopher** - Yes. We see some progress here. First, the Chinese have indicated to us that they thought the proposal is reasonable and that they will participate if the North Koreans do. The North Koreans have asked for further information. They have shown a serious interest in the proposal. I think that is one of the most promising avenues for enabling us to eliminate, as Secretary Perry says, the exception, because if we could reach a peace agreement, if we could reach a situation where the threat from North Korea was diminished, obviously we would be able to take another look at the situation. So the matter that was proposed by the president when he was on Cheju Island is still alive, and we're pressing it forward under difficult circumstances, but we are nevertheless pressing forward. And we are hopeful on making progress.

**Q** - Mr. Secretary, what's the international reaction to the idea of a ban? And can you explain, would every nation -- I mean, how widespread does the acceptance have to be of the idea of a ban before the United States and other countries would forswear any land mines?

**Secretary Christopher** - Well, it's early days, [reporters named deleted by author], but, you know, this is an experience that we've been through before -- chemical weapons convention, the activities now with respect to a comprehensive test ban. I think if we can move first, perhaps, to get the industrialized countries in support of this ban and then broaden out to the nonaligned countries, it's a long, difficult negotiation in most cases. But we've been through that before. We have procedures for moving on it. We have a forum in Geneva. I think the international reaction will be a positive one. If I could just give a little reference to a longer time frame: A decade ago, land mines were fully accepted around the world as an instrument of warfare. I heard no pleas at all. Starting in about 1990, this particular kind of weaponry began to be targeted for being outlawed or put to one side. And I must say, in the last six years, great progress has been made in first alerting the international community to the problem of land mines and then to begin to take some action. This is a difficult evolution, indeed, kind of a revolution in how land mines are viewed. But in the broad stream of history, it's going rather rapidly. And I think the president's decision today will give it a very strong push. And that's our intention.

**Q** - Ambassador, how do you think this will play out in the United Nations? Are you expecting a vote this fall?

**Ambassador Albright** - Let me say that we have actually done pretty well in the last three years at the U.N. First, with a resolution on the moratorium, an export moratorium, which was passed *by consensus* [emphasis added] and, in the last two years, a language that would say the eventual elimination of land mines *by consensus* [emphasis added] was also passed. I would say from my experience in New York that this will go over very well and that we will be able to get a resolution which talks about banning land mines, a global ban, as soon as possible. I think that will be greeted very well, and as Secretary Christopher said, I think the fact that we are taking the lead on this makes an incredible difference in having the other countries join us. So I'm looking forward very much to going up there and making this policy very clear. I think it will be very welcomed. We will have a vote in the fall.

**General Ralston**<sup>66</sup> - Ladies and gentlemen, while we're setting up a couple of slides here, let me cover in a little more detail the policy that was articulated by the president. The Joint Chiefs have been very much aware of, for some time, the problems that are caused by the unintended consequences of land mines. And we also have the responsibility to make sure that our men and women in uniform are protected. We have tried to strike a balance between those competing interests, and let me describe that in a little more detail.

First of all, let me give you the reasons that we use land mines in the first place. I have three illustrative scenarios here. First, force protection. This is where you would have a U.S. unit on an objective being attacked by a large aggressor. Land mines are being placed to delay this aggression while reinforcements arrive. They can be used as an economy of force measure. While we're attacking this objective, if you don't have a battalion to put over here and to protect the flank, you can place land mines -- anti-tank and anti-personnel land mines. Lastly, shaping

<sup>66</sup> As General Ralston briefed, he referenced a slideshow that was being shown to reporters; deleted and edited are minor directions he gave to the reporters in viewing the materials on the actual slides.

the battlefield. Land mines can be placed well behind enemy lines while we are advancing on an objective to delay or to disrupt the enemy movement while we bring other weapons to bear on the enemy. Let me describe in more detail the types of land mines that we're talking about. On [one] hand ... are what we call non-self-destructive, dumb land mines. These are small mines that are in place in the ground, and they stay there literally for years waiting for a human-sized object to come by and detonate it. We also have anti-tank land mines. These are not a threat to people. They take great pressures and great weight to set them off.

These are contrasted to our self-destructive or smart anti-personnel land mines that can be implaced by artillery. ... [The mine] sends out wires in different directions, and if someone walks by, trips these wires, the mine detonates. They also have smart, anti-tank land mines in artillery shells that fire in place. Now notice that in excess of 99 percent of these smart land mines blow themselves up within a matter of hours from the time that they are in place. Even if you have a dud rate of 1 percent or even if it's greater than 1 percent, they still deactivate themselves and become inert. They are no longer a mine within 90 days, and that's because they have a battery. That battery is crucial to them being a mine. When that battery goes dead, they are no longer a mine. So a hundred percent either blow themselves up or deactivate within 90 days.

I might add, and one of the things that has not been well understood about our policy, 100 percent of the land mines that are in place by U.S. forces today are of the dumb land mine variety. So with the president's announcement that we are ceasing the use of these land mines with the exception of Korea, that takes care of the problem. I might add, for example, at Guantanamo Bay [Cuba], for years we have had dumb anti-personnel land mines to protect our Marines at Guantanamo Bay. As we speak today, those anti-personnel land mines are being removed. This is an emotional subject -- anti-personnel land mines. Let me explain why.

The historical record is mixed concerning anti-personnel land mines. We know that they cause casualties, some enemy and some friendly. We know that they inhibit movement -- enemy and friendly -- and the significance in battle is variable. You will talk to combat-seasoned veterans who will tell you that anti-personnel land mines saved their life. You will also talk to veterans who will tell you that their best friend was killed by an anti-personnel land mine, one of ours. So you have conflicting stories.

We do know that they are fully integrated into our doctrine. They protect our forces, they reduce casualties, they do shape the battlefield, as we talked about, and they do buy time for employment of other weapon systems. Our analysis shows that the greatest benefit of anti-personnel land mines is when they are used in conjunction with anti-tank land mines. If you don't cover the anti-tank mine field with anti-personnel mines, it's very easy for the enemy to go through the mine field, place a charge next to the anti-tank mine, blow it up and continue through. Without these anti-personnel land mines, therefore, mine fields are very quickly breached. You can partially compensate with more forces or with more weapons, or by giving up terrain. Even with the compensation, though, there is a greater risk, there is more difficulty holding terrain, and there are potentially heavier losses. So it's these competing interests that the Joint Chiefs have struggled with in coming to grips with this policy.

The policy, as articulated, again, is *immediately cease the use and commence the elimination of the non-self-destructing anti-personnel land mines* [emphasis added], except for Korea and for training purposes. Remember again, that's 100 percent of the ones that we have in place today. And in conjunction with the prompt international agreement, which we will enforce, we will get rid of the self-destructing anti-personnel land mines. The chairman of the Joint Chiefs will be required to report to the secretary of defense and to the president on an annual basis, recommending if the threat on the Korean Peninsula still justifies, with the exception that we talked about. That is our policy, and I'm prepared to address any questions that you may have.

**Q** - General, Secretary Perry said in his presentation that mines would not be used indiscriminately because they would be placed only in the path of an advancing attack. Does that imply that the use of mines in the future would not be delivered via remotely delivered, i.e., scatterable mines? As you're aware, the recently concluded convention on certain conventional weapons -- protocol conference in Geneva -- did permit states to use both sorts of delivery means in the future. So will that also be a means that the U.S. will be using in the future?

**General Ralston** - The U.S. will use the remotely delivered scatterable mines, either by air or artillery. Just because they are remotely delivered doesn't mean they are not accurately delivered. And they would be placed only in the avenue of approach of an approaching enemy.

**Q** - If I may follow up. They may not be inaccurately delivered, but won't that make it much harder to record their eventual location and thus make it more difficult for demining if used -- if delivered by remote means?

**General Ralston** - They will still be located, but if you use smart, self-destructing land mines, within a matter of hours -- days at the most -- they are no longer a mine. They have either blown themselves up or they have ceased to exist as a mine. That's the reason that we have zero smart mines in place today. You don't use them until you are in hostilities or imminent hostilities.

**Q** - ... My recollection in the Korean War is we used [few] mines over there. The situation was very fluid. And in World War II, my recollection is that ... only the Corps of Engineers could lay mines in most areas where I was, and I was over there for three years. And ... they were required to carefully plot all the places that they laid these mines so that later on they could be removed. ... It seems to me ... these mines that are blowing up people all over the world, by and large, should not be American mines. If that's the case, you might want to comment upon that, because it seems to me it leaves us with relatively clean skirts as compared to other countries that have been involved in warfare.

**General Ralston** - I think that is an accurate description, and I think that is exactly true. But I believe, as the President outlined and as Secretary Perry talked about, we are setting the moral course on this, and we have agreed to unilaterally give up these dumb land mines, even though it is not U.S. dumb land mines that are causing the problem around the world. But we are trying to set the example for the rest of the world to follow.

**Q** - Can you give us a sense of the cost implications of today's decision in terms of accelerating development of these various technologies?

**General Ralston** - I can give you a sense -- an order of magnitude of cost for the destruction of the roughly 5 million that the president talked about. That's approximately \$10 million. With regard to the cost of the program that we will undertake in terms of alternatives or demining, I can't give you a figure on that today, and the reason being we had two options here: We could lay out a well-defined program and delay making the policy that was made today, or we could make the policy and work the program in parallel. We chose the latter option. That's being done now.

We have tasked the Defense Science Board, who are the experts in this arena, to get back to us in a timely manner on ideas that they may have that will be folded into a program that will be in time to meet the budget submission of this fall.

**Q** - How many activated land mines do you have along DMZ in Korea?

**General Ralston** - Very high number and I will give you approximately a million.

**Q** - If the indiscriminate mines [are] what has prompted all this action to date, will there be any attention paid in the future to the implications of continued use of cluster munitions?

**General Ralston** - I'm not --

**Q** - Or the functional equivalents?

**General Ralston** - What we have confined our policy to today is anti-personnel land mines as defined by the Convention on Conventional Weapons. We have not addressed a policy beyond that. Thank you.

APPENDIX L  
PRESIDENT OF THE SECURITY COUNCIL OFFICIAL STATEMENT EXCERPTS

Operational demining should be, wherever appropriate, an important element and an integral part of peace-keeping mandates ... the early deployment of mine-clearance units will often be important to the effectiveness of a peace-keeping operation. The Council encourages ... Member States to examine whether and in what form they might be able to help in this respect ... the Security Council emphasizes the importance of coordination by the United Nations of activities related to mine clearance in the context of United Nations peace-keeping, including those by Regional Organizations, in particular in the areas of information and training.

The primary responsibility for demining in the context of United Nations peace-keeping lies with parties responsible for the laying of mines. Parties to a conflict must desist from further mine-laying once a peace-keeping operation is established. They are also obliged to facilitate humanitarian and military demining efforts by providing detailed maps and other relevant information on those mines that have already been laid by them and by contributing financially or otherwise to their removal.

The international community should intensify, multilaterally or bilaterally, its efforts in assisting those parties to a conflict which have shown their readiness to cooperate with mine clearance, mine awareness and training programmes in the context of United Nations peace-keeping operations ... the Security Council appeals to all States to contribute to [the United Nations Voluntary Trust Fund for Demining] as well as to other voluntary funds set up by the Secretary-General for certain peace-keeping operations which contain demining elements.

Demining activities should, as much as possible, make use of the appropriate modern mine clearance technologies and specialized equipment and focus on the creation and strengthening of local demining capabilities; training programmes should attach particular importance to this aspect. Where this would be of benefit to the operational effectiveness of a peace-keeping operation, consideration should also be given to including provision for the training of a local demining capability in mandates of peacekeeping operations ... the Security Council is of the view that the elements outlined in this statement are not exhaustive. The Council will thus keep this issue under review in the context of the establishment of peace-keeping operations and the consideration of specific mandates (UNSC, 1996)

APPENDIX M  
STATEMENT BY THE HEAD OF THE REPUBLIC OF KOREA DELEGATION  
PRESENTED AT THE OTTAWA CONFERENCE

Even though [South Korea attends] this Conference as observers, [its] delegation shares the concern of the international community over the serious anti-human consequences of landmines, particularly anti-personnel landmines (APLs).

The Republic of Korea is keenly aware of the danger of landmines, through the experience of the 1950-53 Korean War. The Republic of Korea has actively participated in international efforts to contain the spread of the weapons of mass destruction. It announced a one-year export moratorium on APLs in September last year, joining the international efforts to prevent APLs from falling into irresponsible hands. This year, our Government has renewed the moratorium for another year. In addition, the Republic of Korea is now seriously considering accession to the Convention [CCW], including the Amended Protocol II.

While the Government of the Republic of Korea in principle supports the ultimate goal of eliminating APLs, I must, however, explain why it cannot fully subscribe to the total and unconditional ban of APLs, not to undermine the efforts we are making here but to make them more fruitful. *South Korea is placed in a unique security situation under which the use of landmines is crucial for safeguarding peace and security* [emphasis added].

The Korean Peninsula is the only region in the world where the residual effect of the Cold War still prevails. This was clearly attested to once again by the recent North Korean commando attempt to infiltrate by a submarine and the terrible losses of human lives on both sides which followed. This came after North Korea's attempt this spring to undermine the integrity of the Demilitarized Zone (DMZ) by moving its armed battalion into the Joint Security Area at the DMZ. North Korea has unilaterally declared abrogation of the Armistice Agreement of 1953 and more than a million highly mechanized North Korean troops stand north of the DMZ. The recent provocation by North Korea demonstrates that the danger of full-scale war on the Peninsula is never far away. To make matters worse, Seoul, the nation's economic center as well as political capital with a population of more than 11 million, is only 30 miles from the DMZ, less than one-third the distance from Ottawa to Montreal.

In case of a surprise attack, the Republic of Korea would not have sufficient time to detect and repel North Korean troops. Without landmines, I am afraid; such a military inroad would result in hundreds of thousands of civilian losses in our densely populated capital. That is why our country cannot but be sensitive to the issue of eliminating all APLs since, *in the present situation; they remain the least costly means, in both human and material terms, of safeguarding peace and security* [emphasis added].

Paradoxically enough, *Korea illustrates a situation in which APLs can serve as the most effective means for achieving the humanitarian goals which the proposed Ottawa Declaration is aiming at—namely reduction of the casualty and suffering* [emphasis added]. The 155-mile-long DMZ, the buffer zone between the two Koreas, remains heavily mined. Nevertheless, since the



end of the Korean War there have been remarkably few incidents related to landmines. Even though it is not yet a party to the CCW, the Republic of Korea has applied strict rules for landmine use. As specified in Article 5 of the Amended Protocol II, all our mines, mined areas, and mine fields are clearly marked, fenced, and monitored constantly by military personnel to protect civilians. Recording is also properly conducted.

And our side of the DMZ is not like other regions of conflict in the world where many civilians suffer severely from irresponsible use of landmines. Those who stand to suffer damages are almost exclusively those who deliberately attempt to violate armistice or peace agreement. We are hopeful that the mines placed along the DMZ will never have to be activated.

I would like to reiterate our full endorsement of the humanitarian concerns and principles which underlie this movement toward a global ban on anti-personnel mines. However, in order for such a ban to be really global and enforceable, efforts should be made to find out why certain countries refuse or hesitate to join in and which of the reasons offered may be recognized as generally valid. Certain rules may be worked out for handling these exceptional situations instead of leaving it to each country's own judgment to decide when and where there is sufficient ground to resume the use of anti-personnel landmines.

In closing, I sincerely hope that this Conference will be successful in working out a more comprehensive and *practical solution* [emphasis added] to the anti-personnel landmines crisis (GICHD, 2005f).

APPENDIX N  
COMMITTEE ON DISARMAMENT AND INTERNATIONAL SECURITY  
(FIRST COMMITTEE) DELIBERATIONS

**Selected Excerpts from the General Debates held in Oct 1996**

**Mr. Alyksandr Sychou (Belarus), Presiding Chairman, First Committee** - A brief analysis of the statements made at this session of the General Assembly shows that an overwhelming majority of Member States are concerned with the problem of landmines and are determined to pursue it vigorously. This comes as no surprise, since the devastation these weapons cause throughout the world and the untold human suffering they continue to inflict on innocent people have attained dreadful proportions. We are, however, only at the beginning of the road. While there is a multitude of avenues to be explored, I think that the international community could be most successful if it adopted a three-track approach:

- The first track concerns moratoriums on the transfer of landmines to non-State entities and to States which are not bound by the Protocol to the Convention on certain conventional weapons; the second track concerns strengthening international cooperation in mine clearance and significantly broadening the scope of such cooperation; [and] the third track concerns tackling the landmine issue through international law, that is, through strengthening the Convention itself.

The ultimate goal of these undertakings should be a total ban on and the elimination of anti-personnel landmines (UNGA, 1996b).

**Mr. O'Rourke (Ireland), on behalf of the European Union** - The European Union considers that the achievements [adoption of Amended Protocol II and the new Protocol IV] of the Review Conference, taken together, are significant steps forward, both in terms of the landmines Protocol itself and of the development of international humanitarian law.

However, the results fell short of our expectations and of specific goals of the Union, such as an effective and binding verification mechanism and minimal, if any, periods of deferral of compliance. At the close of the Review Conference, the European Union pledged to continue to seek solutions to the problems caused by anti-personnel landmines and to strive towards the goal of their eventual elimination ... the Union firmly believes that the international community at every level must intensify its efforts towards eliminating the causes of this international humanitarian disaster as well as getting to grips with its horrific effects.

We warmly commend the timely initiative taken by Canada in convening earlier this month an international meeting of countries that have committed themselves and taken national action to advance a global ban on anti-personnel landmines. We have associated ourselves with the Ottawa Declaration, *Towards a Global Ban on Anti-Personnel Landmines*. A follow-on conference will be hosted by Belgium in June 1997 to review the progress of the international community in achieving a global ban on anti-personnel mines.

The European Union has reviewed its position in the light of developments and has adopted a new Joint Action on anti-personnel landmines. The Joint Action expresses the Union's resolve to combat and end the indiscriminate use and spread throughout the world of anti-personnel landmines and to contribute to solving the problems already caused by these weapons. Furthermore, it sets out the steps which the Union and its member States are to take forthwith towards the full implementation of the results of the Convention on Certain Conventional Weapons Review Conference. As an immediate step, all member States of the European Union are to take all possible action to ratify at an early date, without invoking the provisions concerning deferral of compliance, the amended Protocol II on landmines ... they will also take concerted action to promote universal adherence to the 1980 Convention and the Protocols annexed to it.

The Joint Action also enshrines the Union's commitment to support international efforts to ban anti-personnel landmines. The European Union will work actively towards the achievement at the earliest possible date of an effective international agreement to ban these weapons worldwide. It will seek to raise without delay the issue of a total ban, to which it is committed, in the most appropriate international forum. The new Joint Action commits the Member States to implement a common moratorium on the export of all anti-personnel landmines to all destinations and to endeavour to implement national restrictions or bans additional to those contained in amended Protocol II, particularly on their operational use.

Importantly, it commits the Union to contribute on an ongoing basis to international mine clearance efforts, including through further contributions to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance and/or in response to the request of a regional organization or a third country's authorities. It allocates an amount of up to 7 million ECUs from the budget of the European Communities for initiatives to be launched up to the end of 1997; this is in addition to the significant national contributions of member States. The Union allocated 3 million ECUs and 3.6 million ECUs to the Trust Fund for 1995 and 1996 respectively. Furthermore, it will continue to provide specific assistance for mine clearance. In this regard, the European Community has devoted over 21 million ECUs to civil mine clearance actions in 1996, as well as pursuing related activities. The new Joint Action develops the multi-faceted character of the Union's extensive contribution to mine clearance (UNGA, 1996c).

**Mr. Moher (Canada)** – In pursuing the objective of a global ban on anti-personnel mines, Canada continues to attach great importance to the earliest possible ratification of amended Protocol II of the [CCW] by as many States as possible. Pending a truly global ban on these weapons, amended Protocol II is a vital element in the overall campaign to reduce and eliminate the suffering which they cause. Canada itself is pursuing on an urgent basis the legal and other steps necessary to enable the national ratification of this instrument.

However, Canada, along with many other States, continues to believe that more must be done. To this end, senior officials from 74 countries and numerous international organizations and non-governmental organizations attended the recent international strategy conference ... held at Ottawa ... The 50 participating countries endorsed the Ottawa Declaration, calling for the earliest possible conclusion of a legally binding international agreement to ban anti-personnel mines.

The conference also developed an action plan which outlines many concrete activities which States, international organizations and non-governmental organizations are willing to undertake to build the necessary political will to achieve a ban on anti-personnel mines. We shall request that these documents be circulated for the information of the Committee. It became clear over the course of the Ottawa Conference that there was a critical mass of States willing to push forward now to conclude an international agreement to ban anti-personnel mines.

*Many opponents of an immediate ban argue that antipersonnel mines are a security issue. Well, they are right. It is indeed a security issue: human security [emphasis added].* And that security is shattered every 20 minutes, every day. The Ottawa conference demonstrated to us that there now exists the necessary momentum to put an end to this random and relentless evil. We are convinced that we need not and cannot wait for the ideal, a universal treaty, but should begin with a more limited membership. To capture all the States of the world is not realistic in the first instance. To capture the world's conscience is our goal.

Our objective is a treaty which establishes the global norm against these hideous weapons: that the production, use, stockpiling and transfer of anti-personnel mines is to be banned forever. Several important and global arms control treaties started in such a limited way. Our ongoing challenge will be to make this treaty universal.

We believe that the establishment of December 1997 as a deadline for the conclusion of a treaty is both realistic and *essential in terms of maintaining the unprecedented momentum* [emphasis added] for action. Such a treaty need not be complex. We must avoid the temptation to use as models treaties on strategic offensive weapons. This treaty must be fundamentally different, fundamentally simple. It is a treaty with *both humanitarian and arms control objectives* [emphasis added], about a weapon which is essentially defensive and whose use by one has little effect on the security of another.

We are pleased that Mr. Axworthy's initiative received the immediate support of the Secretary-General, the President of the [ICRC] and the hundreds of international and national nongovernmental organizations represented at the conference. Canada is committed to the goal of a treaty to be signed by December 1997 and in force by the year 2000, and we are prepared to work with all other like-minded States to achieve that objective.

We have a straightforward choice. We can, as it has been put, "remove 110 million mines, an arm and a leg at a time", or we can act now. Canada has chosen to act. We invite all the countries of the United Nations to join with us in this effort so that when we return to this forum next year at this time, we will be moving to establish a new instrument for the protection of humanity.

In our work on the landmines issue, we have developed an extensive database on the national positions of Member States on the use, production, transfer and stockpiling of anti-personnel mines. We understand that no other solid source of information such as this exists at this time. We intend to circulate the database to all delegations in the coming weeks in order to validate the

information contained in it. The database will be used as a tool to measure progress as we move towards a treaty, and eventually, as we move to implement the ban. We call for the cooperation of all Member States in this effort (UNGA, 1996d).

**Mr. Campbell (Australia)** - The past several years have seen significant advances in the discussion and negotiation of disarmament issues. Despite our many differences we, the international community, working together in the [CD], here in this Committee and in a number of other forums, have made quite extraordinary progress. The recent record speaks for itself. We [the UNGA] also need to build on the commendable initiative of our Canadian friends to move forward in our efforts to negotiate a global ban on the production, stockpiling, transfer and use of anti-personnel landmines, so that the appalling misuse of this weapon is meaningfully and comprehensively addressed (UNGA, 1996d).

**Mr. Bergh (South Africa)** - While addressing this issue [the growing problem of the proliferation of small arms], I also wish to take up the suffering and casualties caused by anti-personnel landmines. South Africa has called for the world-wide elimination of anti-personnel landmines. To alleviate the suffering they cause, we are committed to reinforcing international cooperation for mine-clearance and the development of national capacities for mine clearance in mine-infested countries.

Recently, South Africa took part in the international strategy conference on anti-personnel landmines which was held in Ottawa, at the invitation of the Government of Canada. Having taken part in that Conference, we endorsed the Ottawa Declaration, which commits 48 Governments, including several from Africa and from the Southern African Development Community region in particular, to work together to ensure the earliest possible conclusion of a *legally binding international agreement to ban anti-personnel landmines* [emphasis added]. We are also committed to supporting the draft resolution on an international agreement to ban anti-personnel landmines, which has been circulated for consideration by this Committee.

While the negotiations for an international prohibition on anti-personnel landmines would normally take place in an appropriate existing forum, *we would be prepared to consider negotiations in a forum especially set up for this purpose* [emphasis added]. In taking part in any future negotiations, South Africa would also carefully consider the concerns of those countries which have legitimate difficulties in this regard. Nevertheless, our aim is to broaden the Ottawa group to include as many countries as possible, especially African countries. Our effort to broaden the international consensus on this issue is essential before any new agreement is concluded. In this context it is noteworthy that the Council of Ministers of the Organization of African Unity has already called for a total ban on the manufacture and use of mines.

South Africa further welcomes the successful conclusion of the 1996 Review Conference of the States Parties to the [CCW]. The adoption of an amended Protocol II on landmines ... [is one of the] major steps forward in the development of the Convention itself, and also of international humanitarian law in general (UNGA, 1996d).

APPENDIX O  
UNGA RESOLUTION 51/45S

**An International Agreement to Ban Anti-Personnel Landmines A/Res/51/45s, 10 January 1997, Fifty-First Session, Agenda Item 71, Page 33**

The General Assembly,

Recalling with satisfaction its resolutions 48/75 K of 16 December 1993, 49/75 D of 15 December 1994 and 50/70 O of 12 December 1995, in which it, inter alia, urged States to implement moratoriums on the export of anti-personnel landmines,

Also recalling with satisfaction its resolutions 49/75 D and 50/70 O, in which it, inter alia, established as a goal of the international community the eventual elimination of anti-personnel landmines,

Noting that, according to the 1995 report of the Secretary-General entitled "Assistance in mine clearance",<sup>51</sup> it is estimated that there are one hundred and ten million landmines in the ground in more than sixty countries throughout the world,

Noting also that, according to the same report, the global landmine crisis continues to worsen as an estimated two million new landmines are laid each year, while only an estimated one hundred and fifty thousand were cleared in 1995,

Expressing deep concern that anti-personnel landmines kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and the return of internally displaced persons, and have other severe consequences for years after emplacement,

Gravely concerned about the suffering and casualties caused to non-combatants as a result of the proliferation, as well as the indiscriminate and irresponsible use, of anti-personnel landmines,

Recalling with satisfaction its resolutions 48/7 of 19 October 1993, 49/215 A of 23 December 1994 and 50/82 of 14 December 1995 calling for assistance in mine clearance,

Welcoming the recent decisions taken at 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, particularly with respect to the amended Protocol II<sup>13</sup> to the Convention, and believing that the amended Protocol is an essential part of the global effort to address problems caused by the proliferation, as well as the indiscriminate and irresponsible use, of anti-personnel landmines,

Welcoming also the adoption of the declaration entitled "Towards a Global Ban on Anti-Personnel Mines" by participants at the Ottawa International Strategy Conference on 5 October 1996,<sup>52</sup> including its call for the earliest possible conclusion of a legally binding international

agreement to ban anti-personnel landmines, and further welcoming the follow-on conference at Brussels in June 1997,

Welcoming further the recent decisions taken by States to adopt various bans, moratoriums or other restrictions on the use, stockpiling, production and transfer of anti-personnel landmines, and other measures taken unilaterally as well as multilaterally,

Recognizing the need to conclude an international agreement to ban all anti-personnel landmines as soon as possible,

1. Urges States to pursue vigorously an effective, legally binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines with a view to completing the negotiation as soon as possible;

2. Urges States that have not yet done so to accede 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<sup>14</sup> and Protocol II as amended on 3 May 1996,<sup>13</sup> and urges all States immediately to comply to the fullest extent possible with the applicable rules of Protocol II as amended;

3. Welcomes the various bans, moratoriums or other restrictions already declared by States on anti-personnel landmines;

4. Calls upon States that have not yet done so to declare and implement such bans, moratoriums or other restrictions - particularly on operational use and transfer - at the earliest possible date;

5. Requests the Secretary-General to prepare a report on steps taken to complete an international agreement banning the use, stockpiling, production and transfer of anti-personnel landmines, and on other steps taken by Member States to implement such bans, moratoriums or other restrictions and to submit it to the General Assembly at its fifty-second session under the item entitled "General and complete disarmament";

6. Requests Member States to provide the requested information for the report of the Secretary-General on steps taken to complete an international agreement banning the use, stockpiling, production and transfer of anti-personnel landmines, and on other steps taken to implement bans, moratoriums or other restrictions on anti-personnel landmines and to submit such information to the Secretary-General by 15 April 1997.

79th plenary meeting  
10 December 1996

APPENDIX P  
DEPARTMENT OF DEFENSE US LANDMINE POLICY BRIEFING

**17 Jan 1997 Transcript**

**Unnamed Senior Defense Official – Number 1 (A1):** That's all I had for opening comments and I'm happy to take your questions.

**Reporter (Q):** What you're giving us is a progress report here on a six month old policy. Other than the President's initiative in Geneva has anything changed to the basic policy of the United States wanting this ban on mines, but until it gets it, will continue to use dumb mines in Korea, and self-destructing mines elsewhere, if necessary, in U.S. military interests. That hasn't changed, has it?

A1: That's correct.

Q: The White House deferred to DOD on the number of mines in the U.S. arsenal. Can you answer that question?

A1: On the number of mines?

Q: Uh huh.

A1: We are currently in the process of demining approximately three million. That leaves in the inventory several million APLs.

Q: What's several million?

A1: Several million is several million.

Q: Three million, shall we say? Five million?

Q: Eight, nine million?

A1: Several million is going to be several million for today.

Q: Two to three million?

A1: It's going to be several million for today.

Q: How about if we use the number seven million?

A1: It's going to be several million for today. (Laughter)

Q: ... ten?

A1: It means we have several million.

Q: Does that include the number ...

A1: I would say that a cut of three million is a significant reduction, I think, by anybody's standard, and that has been ...

Q: ... deployed in Korea?

A1: What's that?

Q: The several million includes the ones that are deployed in Korea?



A1: The several million includes the ones in Korea, yes.

Q: Is three million all of the dumb landmines?

A1: We have one million dumb mines which are reserved for Korea only.

Q: And then we have other, one million or more other dumb mines that are in addition to that, don't we?

A1: To the best of my knowledge, we have the one million in Korea. All the rest are scheduled to be demined.

Q: That's the three million ...

A1: Correct.

Q: So we have four million dumb mines, in which one million are reserve for Korea, three million are going to be demined.

A1: Correct.

Q: And the other several million you're talking about, it's probably obvious, are not dumb mines. Several million are ...

A1: Are the self-destruct, that's correct.

Q: Can you give us some absolute figures on, for the number of indigenous trainers. I believe you said, that could be from two to five.

A1: I don't have all those numbers for you right here, but we will get them for you.

Q: Do you have any of them here?

A1: Let me take a look. I can give you a couple of them. Senior Defense Official Number 2 will take over for a moment.

**Unnamed Senior Defense Official - Number 2 (A2):** The first number, the total number of indigenous trainers -- last year, 1996, we trained roughly 500 indigenous trainers around the world. This year our current program is projected to train over 1,200 indigenous trainers around the world.

Q: Can you say what countries?

A2: I have a list of them here that we're in currently. That's a matter of record. So I don't leave one out, I'll read you the list.

Q: When you say 1,200 that would be 1997?

A2: 1997, yes. The places we're going to be going this year: Eritrea, Ethiopia, Mozambique, Rwanda, Namibia, Bosnia. We're doing an assessment in Guinea-Bissau. We're doing an assessment in Zimbabwe. We're doing an assessment in Angola. We've got a very active program in Laos and in Cambodia -- Cambodia, by the way, is one of our real success stories. We've got a team going down to SOUTHCOM that's working in Honduras, Costa Rica and Nicaragua with the OAS, IDB. And we've got one more assessment scheduled for Yemen.

Q: Can you give us an example of how a doctrinal change makes not unnecessary to use mines? What do you do? Or do you just substitute dumb mines with smart mines? Is that the total answer to that?

A2: It's important that you understand what this doctrinal means, because it represents a fundamental shift in the way we go to war. When we talk about changing doctrine, as you know with changes in technology and the way the U.S. military fights, we are changing radically the way we go into combat. So we talk about doing doctrinal changes, we're talking about harnessing all of the technological advances we've made, all the things we've learned about mobile warfare for the 21st Century, coupling that with these advances in technology, and then coming up with a highly mobile kind of fighting force that in fact does not use the static landmines.

Q: When you are defending a static DMZ, which has been the resistance in South Korea, can you give me.. If you've got a mile-long border that's static and you now have it completely done with landmines as a way of holding that territory, how, in the new technology, do you hold that same static line?

A2: You put your finger on the thing that's important. I don't want to speak too much for the Joint Staff or the military guys, but one of the reasons we currently have the Korean exemption is because one of the few places in the world where we are forced to fight in a static defensive position against an enemy who is very close with large forces is, in fact, Korea. Because we have no room to maneuver.

Given our choice, the way we fight wars is very different. The way we intend to fight, we don't fight like Korea except in Korea where we have to fight that way. I'd defer to the military experts.

A1: Was that an adequate answer, or would you like me to expand on that one?

Q: Are you going use sensors, what?

Q: How do you defend the static line, which is a given?

A2: Landmines are never "the" single line of defense. There are always observation systems and other engagement systems which we would employ to divert, break up, kill the enemy force as it approaches this line, not of land mines, but the line of the forward edge of the territory we're trying to protect.

So right now all we had, in the past all we had was the non self-destruct mines to channelize forces where we could engage them with artillery, or aircraft, or make them more predictable, or slow them down so that we had more time to engage them with other killing mechanisms over a period of time or over a greater distance. So it's not a static line that necessarily, that's not the greatest efficiency that we derive from the mines.

As we get the higher technologies where we can see further, know earlier, engage at longer ranges, then our requirement to put these somewhat static obstacles and channelization devices goes down. It's the mix of these new killing mechanisms and mix of new intelligence sensors that allow us to decrease our reliance on statically emplaced non self-destruct minefields.

Q: Isn't it the belief of the Joint Chiefs that in the one static situation that we're talking about here, it's going to be a long time until you dig up all kinds of mines that will employ some other technology to defend that line?

A2: I wouldn't put a time line on it. The rates at which we develop and acquire technology are beyond even the Chief's prediction.

Q: Is this a sound military path to pursue, or is this a political decision?

A: The building and the Chiefs in particular are firmly behind the President's policy which has the objective of a global zero ban. That's the military assessment.

Q: Do any of you know why the U.S. is not pursuing the Canadian approach in this upcoming ...

A1: I would say that we support the Canadian approach. I think we look at the issue as simply one, maybe, of tactics. The Canadian approach says let's get a bunch of our friends and let's go very broadly. What we're saying is, let's start with a larger group of folks which includes those who have been producing them and transferring them. Let's start with them and work more narrowly and work out. So we support the Canadian approach. We just are approaching it from a slightly different frame of reference.

Q: ... that you don't support the Canadian approach. They have a specific deadline, and the United States opposes that, don't you?

A1: We want to go forward in the Conference of Disarmament, because we believe that brings to the table right away those states that are producing and transferring all the weapons.

Q: So you don't support the Canadian proposal. You may support their goal, but you don't support their proposal. You oppose it.

A1: We support the Canadian proposal, and we think it's a good proposal, and we will watch to see which states also join. Our fear is that when you have simply like-minded states joining, you're missing the problem. The problem isn't with the like-minded states. It's with the others out there who are producing and transferring. And so we are squarely focused on those who are producing and transferring, and they have already said they're not interested in Ottawa. We want to engage them very quickly and make progress with them as quickly as we can on this issue.

Q: But the United States is not subscribing to the Canadian proposal.

A1: We are currently ...

Q: ... the Canadian bandwagon, as it were.

A1: What's that?

Q: Not jumping on the Canadian bandwagon here.

A1: I would say we are looking at the Canadian bandwagon. We hope many people jump on it, and if the right people jump on it, we would consider it as well. But it is clear that we support what they're trying to do. Again, we just take it from a slightly different angle. But we're glad it's out there.

Q: Which countries do we want to get on board the most? Who are the bad guys? (Laughter)

A1: That was by unnamed journalist number one, not a senior defense official. (Laughter)

I think the folks who produce landmines in large numbers and have traditionally transferred them are fairly well known -- the Russians, the Chinese, and others. That was a neutral description.

Q: What is their objection? Because they have a different tactic and doctrine on warfare? That's why they don't appreciate your approach, so to speak? How can you bring those people around?

A1: I wouldn't want to speak for the Chinese, so ...

Q: I'm asking about how do you convince them otherwise.

A1: We will have to work very hard at that at the Conference of Disarmament, and that's why we have very skilled diplomats.

Q: If landmines have made good military sense up until now, why would the Joint Chiefs not support maintaining the use of landmines?

A2: The Chiefs have supported the continued ... Until we reach this zero global ban ... We've not said we stop today. I'm not sure how ... The question seems framed in a fashion that I really can't answer.

Q: They've been an effective deterrent; they continue to be an effective deterrent. It's an asset that has been considered to be a valuable asset. Why move for the elimination of them?

A2: We are moving toward a point in which we have suitable alternatives to replace landmines, which is part of the President's policy. Therefore, with that, with the alternatives in mind, we can support moving toward the elimination.

Q: I'm a bit confused about how item number two, which is develop alternatives to counter the current reliance on landmines meshes with item number three which is, rework doctrine, tactics and plans so you don't have to use landmines. You're talking about three ... The previous unnamed senior official was saying that doctrinal manuals are being rewritten. I think this implies that you've come up with answers which enable you to rewrite the doctrine manual and say you're not using landmines. But ...

A2: I don't take that implication from those. We're on a trajectory ...

Q: If you're rewriting doctrine manuals, that's pretty serious.

A2: We anticipate that there will be alternative technologies in the future, and we are refining the doctrinal manuals in order to accommodate those kind of technological changes. There is always room in any endeavor, military or otherwise, to refine or improve your current mode of operations. That's what doctrine is all about. So we're trying to do as much as we can to preserve our force protection capability, to make sure that we don't put our forces unnecessarily at risk, and that we apply only those forces necessary with the technology --be it self-destruct landmines or other available. We are also acquiring other means of engaging the enemy --either with intelligence or with other early warning systems or with killing mechanisms. That combination, we have to keep landmines in the overall context of the complete kit bag that's available to the commander in the field, and we're taking specific emphasis on landmines to make sure we don't over-emphasize them, or that we can bring them down toward the President's ultimate goal of zero as quickly as possible. That's why we're rewriting the doctrine and tactics.

Q: Aren't they used because they're cheap? For nations that don't have the cash availabilities that we have. Or are there ways of having alternative technologies that could be made available to countries to use that wouldn't be so expensive? Is that why they opposed it? They want to use them because they're cheap to make?

A2: I don't think I'm really qualified to guess, again, what the Russians or Chinese might have available in technological alternatives or what the prices would be in terms of opportunity lost in their economy. So I'm really not, I don't think I can address that question.

Q: But is there any way to share the technology if you can have the self-destructing ones used instead?

A2: I think there could be a way to do that. The existing technology, yes, we could probably do that.

Q: Are anti-vehicular mines, anti-tank mines; are they so distinct as to not be a part of any of these equations you're talking about? Is there any thought about them?

A1: They're not covered by the policy.

Q: Any idea what the U.S. inventory of that is?

A1: I'm sorry. Anti-armor or anti-tank mines are not covered by the policy. Again, the problem is the 25,000 or so civilians who are killed every year by APLs. No one's being killed, as far as we know, by tank mines. That's a whole different thing.

Q: This is mainly because if someone steps on a tank mine, they just don't weigh enough to set it off?

Q: Again, if you have any numbers available on anti-armor mines.

A1: I do not, because they are outside the scope of the policy discussion, we haven't, at least from our perspective in OSD, we haven't even looked at that question.

Q: Your point two, research. Can you describe in a general way what type of research is being done and how much have been budgeted to do this research?

A1: Are you talking about the research on alternatives or for the humanitarian ...

Q: Research on alternatives.

A1: The alternatives. Most of the study is focusing on, as a general set, on some type of sensor and what the scientist types call kind of a man in the loop. It requires someone observing, and then who's going to direct some kind of fire. That is kind of what the research has done so far in the first six months, of kind of reviewing all possible alternatives out there. They're focusing on some mix of sensors with human observers, and then directing fire. The '97 R&D for that, I believe, is \$3 million, is that right?

A2: You've got to be careful between just the alternative piece and in the broader. There are two things there that are very closely related. We want to be sure we don't confuse you.

As we look at our military for the 21st Century, we're looking at a number of systems and the buzzword for the engineers is systems of systems that give us a series of sensors out there that tells us basically what's on the battlefield, where it is, where it's going, and we can identify very precisely the type of target. With those sensors linked to our new command and control systems and our new fire systems, we are, in fact, going to be able to put very effective discriminate human decision, fires, on those targets, which of course eliminates the need for a landmine. That is a very large program that's been going on for a year, that was going well before we started this alternative to the land mines effort. Because that's the way we're going in the U.S. military for the 21st Century.

With the President's policy, he directed us to specifically move out faster on looking for alternatives to landmines. So we put another wedge into that business to start looking at are there specific things that we could move quicker on, faster, that will allow us to substitute for landmines right now. We've got a much smaller budget for that. The numbers are smaller. This year, for example, we're spending \$1.7 million on studies and tests to look at those technologies

that could enter test and evaluation as early as 1998. Then we've got some other wedges of money in '98 and '99 identified.

But you've got to be careful focusing on just that small piece because if you see that, that's only the tip of the iceberg of what's being done to get rid of landmines.

Q: What relation is the \$1.7...

A2: It's \$1.7 for this year, for studies and evaluations. As you just mentioned, there's \$3 million for next year. Then \$5 million for the year after that, in '97 and '98.

Q: On the current policy, number one, have the mines from GTMO [Guantanamo Bay, Cuba] been removed? They were going to remove mines from GTMO. Is that right?

A2: Not completely yet. I think the current count on that was about ... I'm checking the guys in the back there, about 12,000 were around there, more or less? They've got a very aggressive program to get those out of the ground right now. We don't have a date. That issue came up this morning. We asked some of the same questions as to when. We don't have a firm date, but it will be well within the President's policy of getting rid of all the NSD [non-self-destructing] mines, which is by the end of '99.

Q: Aside from the dumb mines in Korea, the United States does reserve the right, and still reserves the right to use smart mines or self-destructing mines elsewhere, if necessary. Are such mines ... What other countries does the United States currently have mines in?

A2: Pre-positioned?

Q: Yeah.

A2: They're in our stocks around the world.

Q: I'm talking about, not pre-positioned. Buried, in the ground.

A2: We basically don't use them.

Q: In the Middle East ...

Q: Korea ...

Q: The only places are Korea and GTMO currently, then?

Q: We reserve the right to use them elsewhere, but they're not being used now.

A2: Another important point about the way the U.S. military use mines is, first of all, we've changed dramatically the way we use mines over the years. We don't use mines the way other people do. Because of some other things that we do, we simply don't have that kind of requirement.

Q: How much are you spending on humanitarian R&D?

A2: This year, for example, \$14.7 million. That number's gone up and down a little bit, but \$14.7 for this year.

Q: Out of curiosity on the numbers that you were having trouble with earlier, is it because there is a dispute in the government about how many the U.S. has? Is it because it's a classified number? Is it because you just don't know? I'm curious why there isn't more specificity on what the inventory is.

A1: There are several million mines currently in the inventory.

Q: Is that a classified number?

A1: I don't know if that's a classified number or not.

Q: So you don't know the number.

A1: I didn't say that.

Q: Or you don't want to say because you don't know whether it's classified or not? It's really a curiosity point, as he said, but it's kind of odd.

Q: What changed today with this presidential announcement? What was the leap forward today that ...

A1: The leap forward was the announcement today of the selection of the Conference on Disarmament as the venue for going forward to ...

Q: The conference was already taking place and the United States was already going to attend it, right?

A1: What we're going to do when the conference opens is put this issue on the agenda, which is it not currently.

Q: Was somebody else not going to put this issue on the agenda when the conference convened?

A1: To the best of my knowledge, no one else was.

A2: Two other points about today, though, before this thing closes off. The transfer or ban now becomes permanent with the President's policy. That's a significant step forward. As you know, we've been living under a moratorium for awhile that's been extended, but today that became permanent. That's a significant step.

Q: (inaudible), but it had a time limit ...

A2: It had a time limit on it. The other thing is that we capped our stockpile. There's been a lot of talk today about numbers and what the number is. The important thing to remember about the stockpile is that whatever the number is today, the trend line is zero. It's to zero, and soon. We're taking three million out here fairly quickly.

Q: ... several million.

A2: And we can't get more precise than that right now, although we've also been working to get some numbers.

**Press:** Thank you (DOD, 1997).

APPENDIX Q  
DECLARATION OF THE BRUSSELS CONFERENCE ON ANTI-PERSONNEL  
LANDMINES

The following States<sup>67</sup> met in Brussels from June 24 to 27, 1997 to pursue an enduring solution to the urgent humanitarian crisis caused by anti-personnel landmines. They are convinced that this solution must include the early conclusion of a comprehensive ban on anti-personnel landmines.

They recall that United Nations Assembly resolution 51/45 S, supported by 156 States, urged the vigorous pursuit of "an effective, legally binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines."

In that spirit they affirm that the essential elements of such an agreement should include:

- A comprehensive ban on the use, stockpiling, production and transfer of anti-personnel landmines,
- The destruction of stockpiled and removed anti-personnel landmines,
- International cooperation and assistance in the field of mine clearance in affected countries.

The following States:

Encouraged by the work of the Brussels Conference;

Encouraged further by numerous national and regional initiatives and measures taken to eliminate anti-personnel landmines;

Encouraged by the attention given to this subject by the United Nations and by other fora;

Encouraged, finally, by the active support of the International Committee of the Red Cross, the International Campaign to Ban Landmines and numerous other Non-Governmental Organisations;

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<sup>67</sup> Angola, Antigua and Barbuda, Austria, Bahamas, Barbados, Belgium, Belize, Benin, Bolivia, Bosnia Herzegovina, Botswana, Brazil, Burkina Faso, Cambodia, Cameroon, Canada, Cape Verde, Chad, Colombia, Republic of Congo, Costa Rica, Croatia, Czech republic, Denmark, Dominica, El Salvador, Ecuador, Ethiopia, Fiji, France, Gabon, Germany, Ghana, Grenada, Great Britain, Guatemala, Guinea, Guyana, Haiti, the Holy See, Honduras, Hungary, Ireland, Italy, Ivory Coast, Jamaica, Jordan, Lesotho, Liechtenstein, Luxemburg, the Former Yugoslav Republic of Macedonia, Malaysia, Malawi, Mali, Malta, Mauritania, Mexico, Moldova, Monaco, Mozambique, Namibia, the Netherlands, Nicaragua, Norway, New Zealand, Panama, Papua New Guinea, Paraguay, Peru, the Philippines, Portugal, Qatar, Rwanda, Saint Kitts and Nevis, Saint Lucia, San Marino, Saint Vincent and the Grenadines, Senegal, Seychelles, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Surinam, Swaziland, Tanzania, Togo, Trinidad and Tobago, Turkmenistan, Uruguay, Venezuela, Yemen, Zambia, Zimbabwe



Welcome the convening of a Diplomatic Conference by the Government of Norway in Oslo on 1 September 1997 to negotiate such an agreement;

Also welcome the important work done by the Government of Austria on the text of a draft agreement which contains the essential elements identified above and decide to forward it to the Oslo Diplomatic Conference in order to be considered together with other relevant proposals which may be put forward there;

Affirm their objective of concluding the negotiation and signing of such an agreement banning anti-personnel landmines before the end of 1997 in Ottawa;

Invite all other States to join them in their efforts towards such an agreement.

APPENDIX R  
THE OTTAWA CONVENTION  
(THE CONVENTION ON THE PROHIBITION OF THE USE, STOCKPILING,  
PRODUCTION AND TRANSFER OF ANTI-PERSONNEL MINES AND ON THEIR  
DESTRUCTION)

**Preamble**

The States Parties,

Determined to put an end to the suffering and casualties caused by anti-personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement,

Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to face the challenge of removing anti-personnel mines placed throughout the world, and to assure their destruction,

Wishing to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims,

Recognizing that a total ban of anti-personnel mines would also be an important confidence-building measure,

Welcoming the adoption of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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, and calling for the early ratification of this Protocol by all States which have not yet done so,

Welcoming also United Nations General Assembly Resolution 51/45 S of 10 December 1996 urging all States to pursue vigorously an effective, legally-binding international agreement to ban the use, stockpiling, production and transfer of anti-personnel landmines,

Welcoming furthermore the measures taken over the past years, both unilaterally and multilaterally, aiming at prohibiting, restricting or suspending the use, stockpiling, production and transfer of anti-personnel mines,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of anti-personnel mines and recognizing the efforts to that end undertaken

by the International Red Cross and Red Crescent Movement, the International Campaign to Ban Landmines and numerous other non-governmental organizations around the world,

Recalling the Ottawa Declaration of 5 October 1996 and the Brussels Declaration of 27 June 1997 urging the international community to negotiate an international and legally binding agreement prohibiting the use, stockpiling, production and transfer of anti-personnel mines,

Emphasizing the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalization in all relevant fora including, inter alia, the United Nations, the Conference on Disarmament, regional organizations, and groupings, and review conferences 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,

Basing themselves on the principle of international humanitarian law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, on the principle that prohibits the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause superfluous injury or unnecessary suffering and on the principle that a distinction must be made between civilians and combatants,

Have agreed as follows:

## **Article 1**

### **General Obligations**

1. Each State Party undertakes never under any circumstances:

- a. To use anti-personnel mines;
- b. To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines;
- c. To assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.

2. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in accordance with the provisions of this Convention.

## **Article 2**

### **Definitions**

1. "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. Mines designed

to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped.

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

3."Anti-handling device" means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with or otherwise intentionally disturb the mine.

4."Transfer" involves, in addition to the physical movement of anti-personnel mines into or from national territory, the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced anti-personnel mines.

5."Mined area" means an area which is dangerous due to the presence or suspected presence of mines.

### **Article 3**

#### **Exceptions**

1. Notwithstanding the general obligations under Article 1, the retention or transfer of a number of anti-personnel mines for the development of and training in mine detection, mine clearance, or mine destruction techniques is permitted. The amount of such mines shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.

2. The transfer of anti-personnel mines for the purpose of destruction is permitted.

### **Article 4**

#### **Destruction of Stockpiled Anti-personnel Mines**

Except as provided for in Article 3, each State Party undertakes to destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control, as soon as possible but not later than four years after the entry into force of this Convention for that State Party.

### **Article 5**

#### **Destruction of Anti-Personnel Mines In Mined Areas**

1. Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.

2. Each State Party shall make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced and shall ensure as soon as possible that all anti-personnel mines in mined areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all anti-personnel mines referred to in paragraph 1 within that time period, it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such anti-personnel mines, for a period of up to ten years.

4. Each request shall contain:

- a. The duration of the proposed extension;
- b. A detailed explanation of the reasons for the proposed extension, including:
  - i. The preparation and status of work conducted under national demining programs;
  - ii. The financial and technical means available to the State Party for the destruction of all the anti-personnel mines; and
  - iii. Circumstances which impede the ability of the State Party to destroy all the anti-personnel mines in mined areas;
- c. The humanitarian, social, economic, and environmental implications of the extension; and
- d. Any other information relevant to the request for the proposed extension.

5. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.

6. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 3, 4 and 5 of this Article. In requesting a further extension period a State Party shall

submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

## Article 6

### International Cooperation and Assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance, where feasible, from other States Parties to the extent possible.
2. Each State Party undertakes 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 Convention. The States Parties shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.
3. Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.
4. Each State Party in a position to do so shall provide assistance for mine clearance and related activities. Such assistance may be provided, inter alia, through the United Nations system, international or regional organizations or institutions, non-governmental organizations or institutions, or on a bilateral basis, or by contributing to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, or other regional funds that deal with demining.
5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled anti-personnel mines.
6. Each State Party undertakes to provide information to the database on mine clearance established within the United Nations system, especially information concerning various means and technologies of mine clearance, and lists of experts, expert agencies or national points of contact on mine clearance.
7. States Parties may request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental fora to assist its authorities in the elaboration of a national demining program to determine, inter alia:

- a. The extent and scope of the anti-personnel mine problem;
- b. The financial, technological and human resources that are required for the implementation of the program;
- c. The estimated number of years necessary to destroy all anti-personnel mines in mined areas under the jurisdiction or control of the concerned State Party;
- d. Mine awareness activities to reduce the incidence of mine-related injuries or deaths;
- e. Assistance to mine victims;
- f. The relationship between the Government of the concerned State Party and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the program.

8. Each State Party giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.

## **Article 7**

### **Transparency Measures**

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party on:

- a. The national implementation measures referred to in Article 9;
- b. The total of all stockpiled anti-personnel mines owned or possessed by it, or under its jurisdiction or control, to include a breakdown of the type, quantity and, if possible, lot numbers of each type of anti-personnel mine stockpiled;
- c. To the extent possible, the location of all mined areas that contain, or are suspected to contain, anti-personnel mines under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were emplaced;
- d. The types, quantities and, if possible, lot numbers of all anti-personnel mines retained or transferred for the development of and training in mine detection, mine clearance or mine destruction techniques, or transferred for the purpose of destruction, as well as the institutions authorized by a State Party to retain or transfer anti-personnel mines, in accordance with Article 3;
- e. The status of programs for the conversion or de-commissioning of anti-personnel mine production facilities;
- f. The status of programs for the destruction of anti-personnel mines in accordance with Articles 4 and 5, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;

- g. The types and quantities of all anti-personnel mines destroyed after the entry into force of this Convention for that State Party, to include a breakdown of the quantity of each type of anti-personnel mine destroyed, in accordance with Articles 4 and 5, respectively, along with, if possible, the lot numbers of each type of anti-personnel mine in the case of destruction in accordance with Article 4;
- h. The technical characteristics of each type of anti-personnel mine produced, to the extent known, and those currently owned or possessed by a State Party, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of anti-personnel mines; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate mine clearance; and
- i. The measures taken to provide an immediate and effective warning to the population in relation to all areas identified under paragraph 2 of Article 5.

2. The information provided in accordance with this Article shall be updated by the States Parties annually, covering the last calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

## Article 8

### Facilitation and Clarification of Compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information which would assist in clarifying this matter.

3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall



transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

5. The requesting State Party may propose through the Secretary-General of the United Nations the convening of a Special Meeting of the States Parties to consider the matter. The Secretary-General of the United Nations shall thereupon communicate this proposal and all information submitted by the States Parties concerned, to all States Parties with a request that they indicate whether they favour a Special Meeting of the States Parties, for the purpose of considering the matter. In the event that within 14 days from the date of such communication, at least one-third of the States Parties favours such a Special Meeting, the Secretary-General of the United Nations shall convene this Special Meeting of the States Parties within a further 14 days. A quorum for this Meeting shall consist of a majority of States Parties.

6. The Meeting of the States Parties or the Special Meeting of the States Parties, as the case may be, shall first determine whether to consider the matter further, taking into account all information submitted by the States Parties concerned. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach a decision by consensus. If despite all efforts to that end no agreement has been reached, it shall take this decision by a majority of States Parties present and voting.

7. All States Parties shall cooperate fully with the Meeting of the States Parties or the Special Meeting of the States Parties in the fulfilment of its review of the matter, including any fact-finding missions that are authorized in accordance with paragraph 8.

8. If further clarification is required, the Meeting of the States Parties or the Special Meeting of the States Parties shall authorize a fact-finding mission and decide on its mandate by a majority of States Parties present and voting. At any time the requested State Party may invite a fact-finding mission to its territory. Such a mission shall take place without a decision by a Meeting of the States Parties or a Special Meeting of the States Parties to authorize such a mission. The mission, consisting of up to 9 experts, designated and approved in accordance with paragraphs 9 and 10, may collect additional information on the spot or in other places directly related to the alleged compliance issue under the jurisdiction or control of the requested State Party.

9. The Secretary-General of the United Nations shall prepare and update a list of the names, nationalities and other relevant data of qualified experts provided by States Parties and communicate it to all States Parties. Any expert included on this list shall be regarded as

designated for all fact-finding missions unless a State Party declares its non-acceptance in writing. In the event of non-acceptance, the expert shall not participate in fact-finding missions on the territory or any other place under the jurisdiction or control of the objecting State Party, if the non-acceptance was declared prior to the appointment of the expert to such missions.

10. Upon receiving a request from the Meeting of the States Parties or a Special Meeting of the States Parties, the Secretary-General of the United Nations shall, after consultations with the requested State Party, appoint the members of the mission, including its leader. Nationals of States Parties requesting the fact-finding mission or directly affected by it shall not be appointed to the mission. The members of the fact-finding mission shall enjoy privileges and immunities under Article VI of the Convention on the Privileges and Immunities of the United Nations, adopted on 13 February 1946.

11. Upon at least 72 hours notice, the members of the fact-finding mission shall arrive in the territory of the requested State Party at the earliest opportunity. The requested State Party shall take the necessary administrative measures to receive, transport and accommodate the mission, and shall be responsible for ensuring the security of the mission to the maximum extent possible while they are on territory under its control.

12. Without prejudice to the sovereignty of the requested State Party, the fact-finding mission may bring into the territory of the requested State Party the necessary equipment which shall be used exclusively for gathering information on the alleged compliance issue. Prior to its arrival, the mission will advise the requested State Party of the equipment that it intends to utilize in the course of its fact-finding mission.

13. The requested State Party shall make all efforts to ensure that the fact-finding mission is given the opportunity to speak with all relevant persons who may be able to provide information related to the alleged compliance issue.

14. The requested State Party shall grant access for the fact-finding mission to all areas and installations under its control where facts relevant to the compliance issue could be expected to be collected. This shall be subject to any arrangements that the requested State Party considers necessary for:

- a. The protection of sensitive equipment, information and areas;
- b. The protection of any constitutional obligations the requested State Party may have with regard to proprietary rights, searches and seizures, or other constitutional rights; or
- c. The physical protection and safety of the members of the fact-finding mission.

In the event that the requested State Party makes such arrangements, it shall make every reasonable effort to demonstrate through alternative means its compliance with this Convention.

15. The fact-finding mission may remain in the territory of the State Party concerned for no more than 14 days, and at any particular site no more than 7 days, unless otherwise agreed.

16. All information provided in confidence and not related to the subject matter of the fact-finding mission shall be treated on a confidential basis.

17. The fact-finding mission shall report, through the Secretary-General of the United Nations, to the Meeting of the States Parties or the Special Meeting of the States Parties the results of its findings.

18. The Meeting of the States Parties or the Special Meeting of the States Parties shall consider all relevant information, including the report submitted by the fact-finding mission, and may request the requested State Party to take measures to address the compliance issue within a specified period of time. The requested State Party shall report on all measures taken in response to this request.

19. The Meeting of the States Parties or the Special Meeting of the States Parties may suggest to the States Parties concerned ways and means to further clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties or the Special Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6.

20. The Meeting of the States Parties or the Special Meeting of the States Parties shall make every effort to reach its decisions referred to in paragraphs 18 and 19 by consensus, otherwise by a two-thirds majority of States Parties present and voting.

## **Article 9**

### **National Implementation Measures**

Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

## **Article 10**

## **Settlement of Disputes**

1. The States Parties shall consult and cooperate with each other to settle any dispute that may arise with regard to the application or the interpretation of this Convention. Each State Party may bring any such dispute before the Meeting of the States Parties.
2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States parties to a dispute to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.
3. This Article is without prejudice to the provisions of this Convention on facilitation and clarification of compliance.

## **Article 11**

### **Meetings of the States Parties**

1. The States Parties shall meet regularly in order to consider any matter with regard to the application or implementation of this Convention, including:
  - a. The operation and status of this Convention;
  - b. Matters arising from the reports submitted under the provisions of this Convention;
  - c. International cooperation and assistance in accordance with Article 6;
  - d. The development of technologies to clear anti-personnel mines;
  - e. Submissions of States Parties under Article 8; and
  - f. Decisions relating to submissions of States Parties as provided for in Article 5.
2. The First Meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year after the entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.
3. Under the conditions set out in Article 8, the Secretary-General of the United Nations shall convene a Special Meeting of the States Parties.
4. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

## Article 12

### Review Conferences

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:

- a. To review the operation and status of this Convention;
- b. To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11;
- c. To take decisions on submissions of States Parties as provided for in Article 5; and
- d. To adopt, if necessary, in its final report conclusions related to the implementation of this Convention.

3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

## Article 13

### Amendments

1. At any time after the entry into force of this Convention any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depository, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Depository no later than 30 days after its circulation that they support further consideration of the proposal, the Depository shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.

3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to the States Parties.

5. An amendment to this Convention shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

#### **Article 14**

##### **Costs**

1. The costs of the Meetings of the States Parties, the Special Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 and the costs of any fact-finding mission shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

#### **Article 15**

##### **Signature**

This Convention, done at Oslo, Norway, on 18 September 1997, shall be open for signature at Ottawa, Canada, by all States from 3 December 1997 until 4 December 1997, and at the United Nations Headquarters in New York from 5 December 1997 until its entry into force.

#### **Article 16**

##### **Ratification, Acceptance, Approval or Accession**

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

2. It shall be open for accession by any State which has not signed the Convention.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

### **Article 17**

#### **Entry into Force**

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.

2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

### **Article 18**

#### **Provisional Application**

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally paragraph 1 of Article 1 of this Convention pending its entry into force.

### **Article 19**

#### **Reservations**

The Articles of this Convention shall not be subject to reservations.

### **Article 20**

#### **Duration and Withdrawal**

1. This Convention shall be of unlimited duration.

2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating this withdrawal.

3. Such withdrawal shall only take effect six months after the receipt of the instrument of

withdrawal by the Depositary. If, however, on the expiry of that six- month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

#### **Article 21**

##### **Depositary**

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

#### **Article 22**

##### **Authentic Texts**

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.



APPENDIX S  
STATES NOT PARTIES TO THE OTTAWA CONVENTION

Thirty-seven States have not signed the 1997 Ottawa Convention as of 23 Apr 08. The two that have signed the treaty but not ratified are show in bold/italics--these signatory states have made a political commitment to joining the treaty and they have a legal obligation not to take actions that would violate the treaty. \* Indicates Permanent Member of the UN Security Council.

Armenia	Azerbaijan	Bahrain
Burma	*China	Cuba
Egypt	Finland	Georgia
India	Iran	Israel
Kazakhstan	Korea, North	Korea, South
Kyrgyzstan	Lao PDR	Lebanon
Libya	<i>Marshall Islands</i>	Micronesia
Mongolia	Morocco	Nepal
Oman	Pakistan	<i>Poland</i>
*Russian Federation	Saudi Arabia	Singapore
Somalia	Sri Lanka	Syria
Tonga	Tuvalu	United Arab Emirates
*United States	Uzbekistan	Vietnam

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## BIOGRAPHICAL SKETCH

Major Eric M. Moody is the Director of Personnel, Manpower, and Services (A1) for Eighth Air Force (Air Forces Strategic), Barksdale AFB, LA. He was born in Mobile, AL and graduated from Theodore High School, Theodore, AL, in 1980 and from the University of North Alabama, Florence, AL, in 1989 (Bachelor of Science, cum laude) and again in 1992 (M.B.A.). Major Moody was commissioned in the U.S. Air Force in Mar 1994 through Officer Training School, Maxwell AFB, AL. His military education includes the Basic Information Management Officer Course and Basic Personnel Officer Course; Squadron Officer School; Air Force Institute of Technology, Civilian Institution Program, Department of Political Science, University of Florida; and Air Command and Staff College.

His military service has included overseas tours in Iceland and England, a wide variety of assignments in the United States, to include Military Strategic Studies instructor duties for the Air Force Officer Accessions and Training School, Maxwell AFB, AL and the U.S. Air Force Academy, Colorado Springs, CO, and a combat tour in Afghanistan as the Afghanistan National Army Air Corps G-3 Force Management Advisor and CJ-1 Liaison Officer, Combined Air Power Transition Force, Combined Security Transition Command-Afghanistan, in support of Operation Enduring Freedom.

Major Moody's awards and decorations include the Meritorious Service Medal; Air Force Commendation Medal w/1 oak leaf cluster; Air Force Achievement Medal w/1 oak leaf cluster; Meritorious Unit Award; Air Force Outstanding Unit Award w/2 oak clusters; Air Force Organizational Excellence Award; National Defense Service Medal w/bronze star; Afghanistan Campaign Medal; Global War on Terrorism Service Medal; Air Force Longevity Service Ribbon

w/2 oak leaf clusters; Small Arms Expert Marksmanship Ribbon (Pistol); Air Force Training Ribbon; and the NATO Medal.

His professional associations and significant achievements include Member, Air Force Association; Member, American Political Science Association; Student, Isshin-ryu Karate (Go-kyu Rank) and Half Circle Jiu-jitsu (Shichi-kyu Rank), Clyde Stanley's Karate/Self Defense Dojo, Minden, LA; Member, Tatsuo-kan Society and All-American Black Belt Club; 1998 Junior Personnel Officer of the Year, RAF Mildenhall, England; and 1998 Company Grade Officer of the Year, 100<sup>th</sup> Mission Support Squadron, RAF Mildenhall, England. Major Moody's effective dates of promotion to the following ranks are: Second Lieutenant, March 15, 1994; First Lieutenant, March 15, 1996; Captain, March 15, 1998; and Major, May 1, 2004.