I. INTRODUCTION

The Review Conference in Vienna\(^1\) has failed to adopt a revised Convention due to unbridgeable differences among delegations on a strengthened Protocol II of the Convention (Land Mine Protocol). Almost all important provisions of the Protocol were contentious and a number of delegations showed very limited room to move toward a compromise. They were particularly, and surprisingly, the technical issues of detectability, self-destructing, and self-deactivating mechanisms where no consensus could be reached despite four preparatory meetings of technical experts. Also, the issues of transfer and verification are far from being resolved.

From a humanitarian viewpoint the conference was a disappointment. Discussions were very much focused on military necessities and economic considerations while the humanitarian dimension was only highlighted in interventions by the participating relief organizations. The prospects for the adoption of a meaningful Convention when the Conference resumes its deliberations in January and April 1996 are limited. It is likely that delegations will reach agreement only at a very low common denominator, making the revised Land Mine Protocol the same toothless tool as its predecessor.

As to the substantive work of the Conference on a revised Protocol II, different positions emerged on the following provisions of the envisaged Convention.

II. SCOPE OF APPLICATION

There was general agreement among delegations that the material scope of application of the revised convention should extend to internal conflicts. Disagreement remained, however, as to the formulation of such provisions. A large number of delegations supported a clear extension to

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“all circumstances including times of peace,” while other wanted to link the extension to the Geneva Conventions excluding “internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.”

III. RESTRICTIONS ON THE USE OF MINES

The concept of the revised Convention as it was laid out in the Chairman’s Rolling Text is based on a general distinction between self-destructing and non-self-destructing mines. The rational of this concept is drawn from the belief of particular states from the western group that self-destructing mines are a realistic solution to the current land mine problem. It was put forward by delegations that these do not pose a humanitarian problem for civilian populations as they would destroy themselves within a short time period with a reasonable rate of reliability.

Based on this principle, the Conference tried to reach agreement on the following provisions that would restrict the use of land mines:

1. General restrictions for all mines repeating principles of customary humanitarian law, derived from the 1949 Geneva Conventions.

2. Restrictions on the use of non-self-destructing (dumb) mines, requesting mine-laying parties to mark, fence, maintain, monitor, and subsequently clear minefields, with exemptions in the case of direct enemy contact.

3. Prohibition of remotely delivered mines that are not self-destructing.

4. Prohibition of mines that are not detectable.

5. Prohibition of booby-traps.

It was in this area of practical provisions where differences of positions remained that the President of the Conference referred to as being “unbridgeable.”

IV. SELF-DESTRUCTING MECHANISM

The Chairman’s Rolling Text included a bracketed provision that required mines to self-destruct within 7-90 days with a reliability of 99.9% and a self-deactivating mechanism as a backup feature rendering the mine inoperable within 30-365 days with the same reliability.

The discussions in the Committee surrounded two basic areas. The first area was the time frame for self-destruct. Proposals ranged from
7 days, 14 days, 30 days supported by the majority of delegations up to as much as 365 days. The second area of discussion was the failure rate. A number of delegations pointed out that a rate of 1 in 1,000 would be unrealistic. Accordingly, some delegations supported a failure rate of 90% and asked for a grace period of 15 years to comply with these provisions.

The discussions at the Conference underlined that the whole concept is questionable. Self-destructing mines will be excluded from marking and fencing requirements and can be remotely delivered in accordance with the envisaged Convention. The concept of self-destruction is misleading, as it supports a general perception that self-destructing mines are not dangerous. As this assumption is highly doubtful, it will be reduced to absurdity if the position prevails that lowers both the time frame and the failure rate for these mines.

V. DETECTABILITY

Equally broad differences remained concerning the question of detectability, a provision of utmost importance to mine clearance operations. The Rolling Text provided for two alternatives: One required that each mine shall have a metal content equivalent to 8 grams of iron in a single coherent mass; while the other required mines to be detectable with commonly available equipment in a more generic way. No agreement was reached on this provision. Some countries obstructed the inclusion of a precise specification of a metal content, arguing that all mines are, in fact, detectable. Other delegations agreed with such specifications but asked for a grace period, ranging from fifteen years to indefinite. It is needless to say that these proposals would make a provision on detectability meaningless.

Numerous state parties want the requirement for detectability to apply to anti-personnel mines only, arguing with the different objectives of using anti-tank mines and pointing out that the latter do not pose dangers to civilians, a view that was opposed by other delegations and, in particular, by DHA and the ICRC. The question of making a distinction between anti-personnel and anti-tank mines was brought up for all provisions regulating the use of mines.

VI. OTHER ISSUES REGARDING RESTRICTIONS ON THE USE OF MINES

Some delegations pointed to the increasing importance of remotely delivered mines in military operations and, as a result, to the need to allow the use of these mines. The problem is obvious: remotely delivered mines can neither be marked nor fenced nor accurately recorded. Though some delegations supported a position to ban these mines on the whole, the
majority agreed to allow the use of remotely delivered mines that are self-destructing.

No agreement could be reached regarding a tabled proposal to ban anti-handling devices on anti-personnel mines, features of particular danger to mine clearance personnel. Opposing delegations argued that these devices were necessary to protect mines against removal.

VII. TRANSFERS

Prohibiting the transfer of certain mines was already a very contentious issue in the work of the Group of Governmental Experts and no agreement could be reached as to whether a corresponding provision should be included in the Convention. The Conference made only very limited progress to reduce the differences. Opponents argued that the question of transfers should not be part of a humanitarian law regulating the use of certain weapons.

VIII. VERIFICATION AND COMPLIANCE

Like transfers, the question of verification was one of the most controversial issues in the preparatory meetings and at the Review Conference. The western group supported an extensive system by establishing a verification commission that would investigate alleged violations by, for example, fact finding missions. The establishment of a verification regime was heavily opposed by other delegations, with the result that the Conference could not even agree on principles regarding this issue.

IX. CONCLUSION

The United Nations' position on the question of land mines was clearly stated by the Secretary General on various occasions. A total ban on land mines is the only effective measure to rid the world of the scourge of these weapons. He declared at the Vienna Conference: “We must ban land mines once and for all! We must ban their use! We must ban their production! We must destroy those that are stockpiled!”

Although an increasing number of Governments have joined the Secretary General’s call for a total ban on land mines, the probable outcome of the Review Conference will fall short of this aim. Participating states’ positions center too much on the military and economic aspects of the land mine issue and do not take adequately into account the humanitarian dimensions of the land mine crisis, which in fact triggered this Review Conference.
The world-wide problem of uncleared land mines has continued to grow in the past year, with the laying of new mines outstripping the efforts of the United Nations and other bodies to remove them. Mines have become and will continue to be the weapon of choice in armed conflicts, as they are cheap, easy to obtain, and effective. We have also seen a change in the use of these weapons in the past, as land mines were employed in large numbers and in an indiscriminate manner. We are looking at an estimated 10,000,000 land mines in Afghanistan, 9-15,000,000 in Angola, 8-10,000,000 in Cambodia, 10,000,000 in Northern Iraq, and 2,000,000 in Mozambique to name only a few countries.

Probably 10,000 people die each year due to mine accidents and possibly double that number are seriously maimed. But land mines not only strike the individual with their lethal effects, they devastate whole nations by impeding the restoration of societal life in the aftermath of armed conflicts, possibly for decades. Hundreds of thousands of refugees and internally displaced persons cannot return to their villages because of land mines; agriculture cannot be revived without clearing the land of mines; transportation becomes impossible because of mined roads and tracks; irrigation systems and critical industries become unusable; and medical systems are overburdened.

The United Nations' involvement in mine clearance activities began in 1989 when it established its first mine clearance program in Afghanistan, which is currently employing 3000 deminers. Comprehensive mine clearance programs were also set up in Cambodia and Mozambique, and the United Nations is currently in the process of developing its program in Angola. There is increasing international support for these operations which culminated in this year's International Meeting on Mine Clearance in Geneva. But mine clearance activities in the most affected countries are likely to continue for decades and can continue only if this support is sustained at the highest possible level.

But, besides these critical efforts to alleviate the suffering of affected populations, we cannot close our eyes to the fact that the number of newly laid mines exponentially outweighs the number of those that are cleared. The magnitude of the problem makes it imperative that a political solution is found to stop the proliferation of these insidious weapons. There is a growing expectation that the international community takes the necessary steps to rid the world of the scourge of land mines. The States Parties to the CCW will have to amplify their efforts significantly if they want to come up to those expectations. We believe that a total ban on land mines is the only effective measure to end the indiscriminate killing and maiming of innocent civilian personnel.