

**2. 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 (WITH PROTOCOLS I, II AND  
III)**

*Geneva, 10 October 1980*

**ENTRY INTO FORCE:** 2 December 1983 in accordance with article 5 (1) and (3).

**REGISTRATION:** 2 December 1983, No. 22495.

**STATUS:** Signatories: 50. Parties: 127.

**TEXT:** United Nations, *Treaty Series*, vol. 1342, p. 137; depositary notifications C.N.356.1981. TREATIES-7 of 14 January 1982 (procès-verbal of rectification of the Chinese authentic text) and C.N.320.1982. TREATIES-11 of 21 January 1983 (procès-verbal of rectification of the Final Act).

*Note:* The Convention and its annexed Protocols were adopted by the United Nations Conference on Prohibitions or Restrictions of the Use of Certain Conventional Weapons Which May Be Deemed Excessively Injurious or to Have Indiscriminate Effects, held in Geneva from 10 to 28 September 1979 and from 15 September to 10 October 1980. The Conference was convened pursuant to General Assembly resolutions [32/152](#) of 19 December 1977 and [33/70](#) of 14 December 1978. The original of the Convention with the annexed Protocols, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, is deposited with the Secretary-General of the United Nations. The Convention was open for signature by all States at United Nations Headquarters in New York for a period of twelve months from 10 April 1981.

<i>Participant</i>	<i>Signature</i>	<i>Approval(AA), Acceptance(A), Accession(a), Succession(d), Ratification</i>	<i>Participant</i>	<i>Signature</i>	<i>Approval(AA), Acceptance(A), Accession(a), Succession(d), Ratification</i>
Afghanistan.....	10 Apr 1981	9 Aug 2017	Cambodia.....		25 Mar 1997 a
Albania.....		28 Aug 2002 a	Cameroon.....		7 Dec 2006 a
Algeria .....		6 May 2015 a	Canada .....	10 Apr 1981	24 Jun 1994
Antigua and Barbuda.....		23 Aug 2010 a	Chile.....		15 Oct 2003 A
Argentina .....	2 Dec 1981	2 Oct 1995	China <sup>2</sup> .....	14 Sep 1981	7 Apr 1982
Australia.....	8 Apr 1982	29 Sep 1983	Colombia .....		6 Mar 2000 a
Austria .....	10 Apr 1981	14 Mar 1983	Costa Rica.....		17 Dec 1998 a
Bahrain.....		11 Mar 2016 a	Côte d'Ivoire .....		25 May 2016 A
Bangladesh.....		6 Sep 2000 a	Croatia <sup>1</sup> .....		2 Dec 1993 d
Belarus .....	10 Apr 1981	23 Jun 1982	Cuba.....	10 Apr 1981	2 Mar 1987
Belgium .....	10 Apr 1981	7 Feb 1995	Cyprus.....		12 Dec 1988 a
Benin.....		27 Mar 1989 a	Czech Republic <sup>3</sup> .....		22 Feb 1993 d
Bolivia (Plurinational State of).....		21 Sep 2001 a	Denmark .....	10 Apr 1981	7 Jul 1982
Bosnia and Herzegovina <sup>1</sup> .....		1 Sep 1993 d	Djibouti.....		29 Jul 1996 a
Brazil .....		3 Oct 1995 a	Dominican Republic .....		21 Jun 2010 a
Bulgaria .....	10 Apr 1981	15 Oct 1982	Ecuador.....	9 Sep 1981	4 May 1982
Burkina Faso.....		26 Nov 2003 a	Egypt.....	10 Apr 1981	
Burundi .....		13 Jul 2012 a	El Salvador .....		26 Jan 2000 a
Cabo Verde.....		16 Sep 1997 a	Estonia .....		20 Apr 2000 a
			Finland.....	10 Apr 1981	8 Apr 1982
			France .....	10 Apr 1981	4 Mar 1988

<i>Participant</i>	<i>Signature</i>	<i>Approval(AA), Acceptance(A), Accession(a), Succession(d), Ratification</i>	<i>Participant</i>	<i>Signature</i>	<i>Approval(AA), Acceptance(A), Accession(a), Succession(d), Ratification</i>
Gabon.....		1 Oct 2007 a	Netherlands (Kingdom of the) <sup>7</sup> .....	10 Apr 1981	18 Jun 1987 A
Georgia .....		29 Apr 1996 a	New Zealand.....	10 Apr 1981	18 Oct 1993
Germany <sup>4</sup> .....	10 Apr 1981	25 Nov 1992	Nicaragua.....	20 May 1981	5 Dec 2000
Greece.....	10 Apr 1981	28 Jan 1992	Niger .....		10 Nov 1992 a
Grenada.....		10 Dec 2014 a	Nigeria .....	26 Jan 1982	
Guatemala.....		21 Jul 1983 a	North Macedonia <sup>1</sup> .....		30 Dec 1996 d
Guinea-Bissau.....		6 Aug 2008 a	Norway .....	10 Apr 1981	7 Jun 1983
Holy See .....		22 Jul 1997 a	Pakistan.....	26 Jan 1982	1 Apr 1985
Honduras.....		30 Oct 2003 a	Panama.....		26 Mar 1997 a
Hungary .....	10 Apr 1981	14 Jun 1982	Paraguay .....		22 Sep 2004 a
Iceland .....	10 Apr 1981	22 Aug 2008	Peru.....		3 Jul 1997 a
India.....	15 May 1981	1 Mar 1984	Philippines .....	15 May 1981	15 Jul 1996
Iraq.....		24 Sep 2014 a	Poland .....	10 Apr 1981	2 Jun 1983
Ireland.....	10 Apr 1981	13 Mar 1995	Portugal.....	10 Apr 1981	4 Apr 1997
Israel .....		22 Mar 1995 a	Qatar .....		16 Nov 2009 a
Italy.....	10 Apr 1981	20 Jan 1995	Republic of Korea.....		9 May 2001 a
Jamaica .....		25 Sep 2008 a	Republic of Moldova.....		8 Sep 2000 a
Japan .....	22 Sep 1981	9 Jun 1982 A	Romania.....	8 Apr 1982	26 Jul 1995
Jordan.....		19 Oct 1995 a	Russian Federation .....	10 Apr 1981	10 Jun 1982
Kazakhstan.....		8 Jul 2009 a	Saudi Arabia .....		7 Dec 2007 a
Kuwait .....		24 May 2013 a	Senegal.....		29 Nov 1999 a
Lao People's Democratic Republic <sup>5</sup> .....		3 Jan 1983 a	Serbia <sup>1</sup> .....		12 Mar 2001 d
Latvia.....		4 Jan 1993 a	Seychelles .....		8 Jun 2000 a
Lebanon .....		5 Apr 2017 a	Sierra Leone.....	1 May 1981	30 Sep 2004
Lesotho .....		6 Sep 2000 a	Singapore.....		21 Sep 2023 a
Liberia.....		16 Sep 2005 a	Slovakia <sup>3</sup> .....		28 May 1993 d
Liechtenstein.....	11 Feb 1982	16 Aug 1989	Slovenia <sup>1</sup> .....		6 Jul 1992 d
Lithuania.....		3 Jun 1998 a	South Africa.....		13 Sep 1995 a
Luxembourg.....	10 Apr 1981	21 May 1996	Spain .....	10 Apr 1981	29 Dec 1993
Madagascar.....		14 Mar 2008 a	Sri Lanka.....		24 Sep 2004 a
Malawi.....		23 Sep 2022 a	St. Vincent and the Grenadines .....		6 Dec 2010 a
Maldives .....		7 Sep 2000 a	State of Palestine .....		5 Jan 2015 a
Mali.....		24 Oct 2001 a	Sudan .....	10 Apr 1981	
Malta.....		26 Jun 1995 a	Sweden.....	10 Apr 1981	7 Jul 1982
Mauritius.....		6 May 1996 a	Switzerland .....	18 Jun 1981	20 Aug 1982
Mexico .....	10 Apr 1981	11 Feb 1982	Tajikistan .....		12 Oct 1999 a
Monaco .....		12 Aug 1997 a	Togo.....	15 Sep 1981	4 Dec 1995 A
Mongolia.....	10 Apr 1981	8 Jun 1982	Tunisia .....		15 May 1987 a
Montenegro <sup>6</sup> .....		23 Oct 2006 d	Türkiye.....	26 Mar 1982	2 Mar 2005
Morocco.....	10 Apr 1981	19 Mar 2002	Turkmenistan.....		19 Mar 2004 a
Nauru .....		12 Nov 2001 a	Uganda.....		14 Nov 1995 a

<i>Participant</i>	<i>Signature</i>	<i>Approval(AA), Acceptance(A), Accession(a), Succession(d), Ratification</i>	<i>Participant</i>	<i>Signature</i>	<i>Approval(AA), Acceptance(A), Accession(a), Succession(d), Ratification</i>
Ukraine .....	10 Apr 1981	23 Jun 1982	Uruguay .....		6 Oct 1994 a
United Arab Emirates ....		26 Feb 2009 a	Uzbekistan .....		29 Sep 1997 a
United Kingdom of Great Britain and Northern Ireland.....	10 Apr 1981	13 Feb 1995	Venezuela (Bolivarian Republic of) .....		19 Apr 2005 a
United States of America.....	8 Apr 1982	24 Mar 1995	Viet Nam.....	10 Apr 1981	
			Zambia .....		25 Sep 2013 a

***Consent to be bound by Protocols I, II, and III, adopted on 10 October 1980, pursuant to article 4 (3) and (4) of the Convention<sup>8</sup>***

<i>Participant</i>	<i>Protocol I</i>	<i>Protocol II</i>	<i>Protocol III</i>
Afghanistan.....	x		x
Albania.....	x	x	x
Algeria .....	x		x
Antigua and Barbuda .....	x		x
Argentina .....	x	x	x
Australia.....	x	x	x
Austria .....	x	x	x
Bahrain.....			x
Bangladesh.....	x	x	x
Belarus .....	x	x	x
Belgium .....	x	x	x
Benin.....	x		x
Bolivia .....	x	x	x
Bosnia and Herzegovina <sup>1</sup> .....	x	x	x
Brazil .....	x	x	x
Bulgaria .....	x	x	x
Burkina Faso.....	x	x	x
Burundi .....	x		
Cambodia.....	x	x	x
Canada .....	x	x	x
Cape Verde .....	x	x	x
Chile.....	x		x
China.....	x	x	x
Colombia .....	x	x	x
Costa Rica.....	x	x	x
Côte d'Ivoire .....	x		
Croatia <sup>1</sup> .....	x	x	x
Cuba.....	x	x	x
Cyprus.....	x	x	x
Czech Republic.....	x	x	x
Denmark .....	x	x	x

<i>Participant</i>	<i>Protocol I</i>	<i>Protocol II</i>	<i>Protocol III</i>
Djibouti.....x		x	x
Ecuador.....x		x	x
El Salvador.....x		x	x
Estonia.....x			x
Finland.....x		x	x
France.....x		x	x (18 July 2002)
Gabon.....x			x
Georgia.....x		x	x
Germany.....x		x	x
Greece.....x		x	x
Grenada.....x			x
Guatemala.....x		x	x
Guinea-Bissau.....x		x	x
Holy See.....x		x	x
Honduras.....x		x	x
Hungary.....x		x	x
Iceland.....x		x	x
India.....x		x	x
Iraq.....x		x	x
Ireland.....x		x	x
Israel.....x		x	
Italy.....x		x	x
Jamaica.....x			x
Japan.....x		x	x
Jordan.....x			x
Kazakhstan.....x			x
Kuwait.....x			x
Lao People's Democratic Republic.....x	x	x	x
Latvia.....x		x	x
Lebanon.....x			x
Lesotho.....x		x	x
Liberia.....x		x	x
Liechtenstein.....x		x	x
Lithuania.....x			x
Luxembourg.....x		x	x
Madagascar.....x		x	x
Malawi.....x		x	
Maldives.....x			x
Mali.....x		x	x
Malta.....x		x	x
Mauritius.....x		x	x
Mexico.....x		x	x
Moldova.....x		x	x
Monaco.....x			
Mongolia.....x		x	x

<i>Participant</i>	<i>Protocol I</i>	<i>Protocol II</i>	<i>Protocol III</i>
Montenegro <sup>6</sup> .....		X	X
Morocco.....		X	
Nauru .....		X	X
Netherlands.....		X	X
New Zealand.....		X	X
Nicaragua.....			X
Niger .....		X	X
Norway .....		X	X
Pakistan.....		X	X
Panama.....		X	X
Paraguay .....		X	X
Peru.....			X
Philippines .....		X	X
Poland .....		X	X
Portugal.....		X	X
Qatar .....			X
Republic of Korea.....			
Romania.....		X	X
Russian Federation .....		X	X
Saudi Arabia .....			X
Senegal.....			X
Serbia <sup>1</sup> .....		X	X
Seychelles .....		X	X
Sierra Leone.....			X
Singapore .....			X
Slovakia .....		X	X
Slovenia <sup>1</sup> .....		X	X
South Africa.....		X	X
Spain .....		X	X
Sri Lanka.....		X	X
St. Vincent and the Grenadines .....	X		X
State of Palestine .....			X
Sweden.....		X	X
Switzerland .....		X	X
Tajikistan .....		X	X
The former Yugoslav Republic of Macedonia <sup>1</sup> .....	X	X	X
Togo.....		X	X
Tunisia .....		X	X
Turkey.....			
Turkmenistan.....		X	
Uganda.....		X	X
Ukraine .....		X	X
United Arab Emirates .....			X
United Kingdom of Great	X	X	X

<i>Participant</i>	<i>Protocol I</i>	<i>Protocol II</i>	<i>Protocol III</i>
Britain and Northern Ireland .....			
United States of America.....	x	x	x (21 January 2009)
Uruguay .....	x	x	x
Uzbekistan .....	x	x	x
Venezuela (Bolivarian Republic of) .....	x	x	x
Zambia .....	X	X	X

***Declarations and Reservations***  
*(Unless otherwise indicated, the declarations and reservations were made upon ratification, acceptance, approval, accession or succession.)*

**ARGENTINA**

The Argentine Republic makes the express reservation that any references to the 1977 Protocols Additional to the Geneva Conventions of 1949 that are contained in the [said Convention and its Protocols I, II and III] shall be interpreted in the light of the interpretative declarations in the instrument of accession of the Argentine Republic to the afore-mentioned additional Protocols of 1977.

**CANADA**

"1. It is the understanding of the Government of Canada that:

(a) The compliance of commanders and others responsible for planning, deciding upon, or executing attacks to which the Convention and its Protocols apply cannot be judged on the basis of information which subsequently comes to light but must be assessed on the basis of the information available to them at the time that such actions were taken; and

(b) Where terms are not defined in the present Convention and its Protocols they shall, so far as is relevant, be construed in the same sense as terms contained in additional Protocol I to the Geneva Conventions of August 12, 1949.

2. With respect to Protocol I, it is the understanding of the Government of Canada that the use of plastics or similar materials for detonators or other weapons parts not designed to cause injury is not prohibited.

3. With respect to Protocol II, it is the understanding of the Government of Canada that:

(a) Any obligation to record the location of remotely delivered mines pursuant to sub-paragraph 1 (a) of article 5 refers to the location of mine fields and not to the location of individual remotely delivered mines;

(b) The term 'pre-planned', as used in sub-paragraph 1 (a) of article 7 means that the position of the minefield in question should have been determined in advance so that an accurate record of the location of the minefield, when laid, can be made;

(c) The phrase 'similar functions' used in article 8, includes the concepts of 'peace-making, preventive peace-keeping and peace enforcement' as defined in an agenda for peace (United Nations document A/47/277 S/2411 of 17 June 1992).

4. With respect to Protocol III, it is the understanding of the Government of Canada that the expression 'clearly separated' in paragraph 3 of article 2 includes both spatial separation or separation by means of an effective physical

barrier between the military objective and the concentration of civilians."

**CHINA**

*Statement:*

1. The Government of the People's Republic of China has decided to sign 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 adopted at the United Nations Conference held in Geneva on 10 October 1980.

2. The Government of the People's Republic of China deems that the basic spirit of the Convention reflects the reasonable demand and good intention of numerous countries and peoples of the world regarding prohibitions or restrictions on the use of certain conventional weapons which are excessively injurious or have indiscriminate effects. This basic spirit conforms to China's consistent position and serves the interest of opposing aggression and maintaining peace.

3. However, it should be pointed out that the Convention fails to provide for supervision or verification of any violation of its clauses, thus weakening its binding force. The Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices fails to lay down strict restrictions on the use of such weapons by the aggressor on the territory of his victim and to provide adequately for the right of a state victim of an aggression to defend itself by all necessary means. The Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons does not stipulate restrictions on the use of such weapons against combat personnel. Furthermore, the Chinese texts of the Convention and Protocol are not accurate or satisfactory enough. It is the hope of the Chinese Government that these inadequacies can be remedied in due course.

**CYPRUS**

"The provisions of article 7 of paragraph (3b) and article 8 of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II) will be interpreted in such a way that neither the status of peace-keeping forces or missions of the United Nations in Cyprus will be affected nor will additional rights be, *ipso jure*, granted to them."

**FRANCE**

*Declaration:*

After signing 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 French Government, as it has already had occasion to state

- through its representative to the United Nations Conference on Prohibitions or Restrictions on the Use of Certain Conventional Weapons in Geneva, during the discussion of the proposal concerning verification arrangements submitted by the delegation of the Federal Republic of Germany and of which the French Government became a sponsor, and at the final meeting on 10 October 1980;

- on 20 November 1980 through the representative of the Netherlands, speaking on behalf of the nine States members of the European Community in the First Committee at the thirty-fifth session of the United Nations General Assembly;

Regrets that thus far it has not been possible for the States which participated in the negotiation of the Convention to reach agreement on the provisions concerning the verification of facts which might be alleged and which might constitute violations of the undertakings subscribed to.

It therefore reserves the right to submit, possibly in association with other States, proposals aimed at filling that gap at the first conference to be held pursuant to article 8 of the Convention and to utilize, as appropriate, procedures that would make it possible to bring before the international community facts and information which, if verified, could constitute violations of the provisions of the Convention and the Protocols annexed thereto.

#### *Interpretative statement*

The application of this Convention will have no effect on the legal status of the parties to a conflict.

#### *Reservation:*

France, which is not bound by Additional Protocol I of 10 June 1977 to the Geneva Conventions of 12 August 1949:

Considers that the fourth paragraph of the preamble 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, which reproduces the provisions of article 35, paragraph 3, of Additional Protocol I, applies only to States parties to that Protocol;

States, with reference to the scope of application defined in article 1 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, that it will apply the provisions of the Convention and its three Protocols to all the armed conflicts referred to in articles 2 and 3 common to the Geneva Conventions of 12 August 1949;

States that as regards the Geneva Conventions of 12 August 1949, the declaration of acceptance and application provided for in article 7, paragraph 4 (b), of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons will have no effects other than those provided for in article 3 common to the Geneva Conventions, in so far as that article is applicable.

The French Republic accepts the provisions of article 2, paragraphs 2 and 3, insofar as the terms used in these paragraphs do not lead to the assumption that an attack using incendiary weapons launched from an aircraft would involve any greater risk of indiscriminate hits than one launched by any other means.

It is the understanding of the French Republic that the term "clearly separated" used in article 2, paragraph 3, can be interpreted as meaning either a separation in terms of space or a separation by means of a physical barrier between the military target and the concentration of civilians.

### **HOLY SEE**

"The Holy See, as a signatory of the [said Convention and annexed Protocols], in keeping with its proper nature and with the particular condition of Vatican City State, intends to renew its encouragement to the International

Community to continue on the path it has taken for the reduction of human suffering caused by armed conflict.

Every step in this direction contributes to increasing awareness that war and the cruelty of war must be done away with in order to resolve tensions by dialogue and negotiation, and also by ensuring that international law is respected.

The Holy See, while maintaining that the above-mentioned Convention and Protocols constitute an important instrument for humanitarian international law, reiterates the objective hoped for by many parties: an agreement that would totally ban anti-personnel mines, the effects of which are tragically well-known.

In this regard, the Holy See considers that the modifications made so far in the second Protocol are insufficient and inadequate. It wishes, by means of its own accession to the Convention, to offer support to every effort aimed at effectively banning anti-personnel mines, in the conviction that all possible means must be used in order to build a safer and more fraternal world."

### **ISRAEL**

"(a) With reference to the scope of application defined in article 1 of the Convention, the Government of the State of Israel will apply the provisions of the Convention and those annexed Protocols to which Israel has agreed become bound to all armed conflicts involving regular armed forces of States referred to in article 2 common to the General Conventions of 12 August 1949, as well as to all armed conflicts referred to in article 3 common to the Geneva Conventions of 12 August 1949.

(b) Article 7, paragraph 4 of the Convention will have no effect.

(c) The application of this Convention will have no effect on the legal status of the parties to a conflict.

#### *Understandings:*

(a) It is the understanding of the Government of the State of Israel that the compliance of commanders and others responsible for planning, deciding upon, or executing attacks to which the Convention and its Protocols apply, cannot be judged on the basis of information which subsequently comes to light, but must be assessed on the basis of the information available to them at the time that such actions were taken.

(b) With respect to Protocol I, it is the understanding of the Government of Israel that the use of plastics or similar materials for detonators or other weapon parts not designed to cause injury is not prohibited.

(c) With respect to Protocol I, it is the understanding of the Government of Israel that:

(i) Any obligation to record the location of remotely delivered mines pursuant to sub-paragraph 1 (a) of article 5 refers to the location of mine fields and not to the location of individual remotely delivered mines;

(ii) The term pre-planned, as used in sub-paragraph 1 (a) of article 7 means that the position of the minefield in question should have been determined in advance so that an accurate record of the location of the minefield, when laid, can be made."

### **ITALY**

#### *Declaration:*

On 10 October 1980 in Geneva, the representative of Italy at the Conference speaking at the closing meeting, emphasized that the Conference, in an effort to reach a compromise between what was desirable and what was possible, had probably achieved the maximum results feasible in the circumstances prevailing at that time.

However, he observed in his statement that one of the objectives which had not been achieved at the Conference, to his Government's great regret, was the inclusion in the text of the Convention, in accordance with a proposal originated by the Federal Republic of Germany, of an article on the establishment of a consultative committee of experts competent to verify

facts which might be alleged and which might constitute violations of the undertakings subscribed to.

On the same occasion, the representative of Italy expressed the wish that the proposal, which was aimed at strengthening the credibility and effectiveness of the Convention, should be reconsidered at the earliest opportunity within the framework of the mechanisms for the amendment of the Convention expressly provided for in that instrument.

Subsequently, through the representative of the Netherlands, speaking on behalf of nine States members of the European Community in the First Committee of the United Nations General Assembly on 20 November 1980, when it adopted draft resolution A/C.1/31/L.15 (subsequently adopted as General Assembly Resolution 35/153), Italy once again expressed regret that the States which had participated in the preparation of the texts of the Convention and its Protocols had been unable to reach agreement on provisions that would ensure respect for the obligations deriving from those texts.

In the same spirit, Italy - which has just signed the Convention in accordance with the wishes expressed by the General Assembly in its resolution 35/153 - wishes to confirm solemnly that it intends to undertake active efforts to ensure that the problem of the establishment of a mechanism that would make it possible to fill a gap in the Convention and thus ensure that it achieves maximum effectiveness and maximum credibility vis-à-vis the international community is taken up again at the earliest opportunity in every competent forum.

#### NETHERLANDS (KINGDOM OF THE)

"1. *With regard to article 2, paragraph 4, of Protocol II:*

It is the understanding of the Government of the Kingdom of the Netherlands that a specific area of land may also be a military objective if, because of its location or other reasons specified in paragraph 4, its total or partial destruction, capture, or neutralization in the circumstances ruling at the time, offers a definitive military advantage;

"2. *With regard to article 3, paragraph 3, under c, of Protocol II:*

It is the understanding of the Government of the Kingdom of the Netherlands that military advantage refers to the advantage anticipated from the attack considered as a whole and not only from isolated or particular parts of the attack;

"3. *With regard to article 8, paragraph 1, of Protocol II:*

It is the understanding of the Government of the Kingdom of the Netherlands that the words 'as far as it is able' mean 'as far as it is technically able'.

"4. *With regard to article 1, paragraph 3, of Protocol III:*

It is the understanding of the Government of the Kingdom of the Netherlands that a specific area of land may also be a military objective if, because of its location or other reasons specified in paragraph 3, its total or partial destruction, capture, or neutralization in the circumstances ruling at the time, offers a definitive military advantage."

#### ROMANIA

2. Romania considers that the Convention and the three Protocols annexed thereto constitute a positive step within the framework of the efforts which have been made for the gradual development of international humanitarian law applicable during armed conflicts and which aim at providing very broad and reliable protection for the civilian population and the combatants.

3. At the same time, Romania would like to emphasize that the provisions of the Convention and its Protocols have a restricted character and do not ensure adequate protection either to the civilian population or to

the combatants as the fundamental principles of international humanitarian law require.

4. The Romanian Government wishes to state on this occasion also that real and effective protection for each individual and for peoples and assurance of their right to a free and independent life necessarily presuppose the elimination of all acts of aggression and the renunciation once and for all of the use of force and the threat of the use of force, of intervention in the domestic affairs of other States and of the policy of domination and diktat and strict observation of the sovereignty and independence of peoples and their legitimate right to self-determination.

In the present circumstances, when a vast quantity of nuclear weapons has been accumulated in the world, the protection of each individual and of all peoples is closely linked with the struggle for peace and disarmament and with the adoption of authentic measures to halt the arms race and ensure the gradual reduction of nuclear weapons until they are totally eliminated.

5. The Romanian Government states once again its decision to act, together with other States, to ensure the prohibition or restriction of all conventional weapons which are excessively injurious or have indiscriminate effects, and the adoption of urgent and effective measures for nuclear disarmament which would protect peoples from the nuclear war which seriously threatens their right to life--a fundamental condition for the protection which international humanitarian law must ensure for the individual, the civilian population and the combatants.

#### SINGAPORE

"Singapore is not bound by Additional Protocol I of 10 June 1977 to the Geneva Conventions of 12 August 1949.

Therefore, the Government of Singapore considers that the fourth paragraph of the preamble to the Convention, which reproduces the substance of provisions of article 35(3) and article 55(1) of Additional Protocol I of 10 June 1977 to the Geneva Conventions of 12 August 1949, applies only to States which are party to that same Additional Protocol I.

With respect to the scope of application defined in article 1 of the Convention, the Government of Singapore will apply the provisions of the Convention and those annexed Protocols to which Singapore has agreed to be bound to all armed conflicts involving regular armed forces of States referred to in article 2 common to the Geneva Conventions of 12 August 1949, as well as to all armed conflicts referred to in article 3 common to the Geneva Conventions of 12 August 1949. The application of this Convention will have no effect on the legal status of the parties to a conflict.

Article 7(4) of the Convention shall not apply with respect to Singapore.

With respect to Protocol I to the Convention, it is the understanding of the Government of Singapore that the use of plastics or similar materials for detonators or other weapons parts not designed to cause injury is not prohibited.

It is the understanding of the Government of Singapore that the compliance of commanders and others responsible for planning, deciding upon, or executing attacks to which the Convention and its annexed Protocols apply cannot be judged on the basis of information which subsequently comes to light, but must be assessed on the basis of the information available to them at the time that such actions were taken."

#### TÜRKIYE

"Turkey is not bound by Additional Protocol I of 10 June 1977 to the Geneva Conventions of 12 August 1949:

Therefore, Turkey, with reference to the scope of application defined in article 1 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, states that it will apply the Convention to all armed conflicts referred to in articles 2 and 3 common to the Geneva Conventions of 12 August 1949.

Turkey also states that paragraph 4 of article 7 of this Convention shall not apply with respect to Turkey."

#### UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

"The Government of the United Kingdom of Great Britain and Northern Ireland will give further consideration to certain provisions of the Convention, particularly in relation to the provisions of Protocol I additional to the Geneva Conventions of 12 August 1949, and may wish to make formal declarations in relation to these provisions at the time of ratification."

##### (a) *Generally*

(i) The term "armed conflict" of itself and in its context denotes a situation of a kind which is not constituted by the commission of ordinary crimes, including acts of terrorism, whether concerted or in isolation.

(ii) The United Kingdom will not, in relation to any situation in which it is involved, consider itself bound in consequence of any declaration purporting to be made for the purposes of article 7 (4), unless the United Kingdom shall have expressly recognised that it has been made by a body which is genuinely an authority representing a people engaged in an armed conflict of the type to which that paragraph applies.

(iii) The terms "civilian" and "civilian population" have the same meaning as in article 50 of the 1st Additional Protocol of 1977 to the 1949 Geneva Conventions. Civilians shall enjoy the protection afforded by this Convention unless and for such time as they take a direct part in hostilities.

(iv) Military commanders and others responsible for planning, deciding upon, or executing attacks necessarily have to reach decisions on the basis of their assessment of the information from all sources which is reasonably available to them at the relevant time.

(b) *Re: Protocol II, article 2; and Protocol III, article 1*

A specific area of land may be a military objective if, because of its location or other reasons specified in this article, its total or partial destruction, capture or neutralisation in the circumstances ruling at the time offers a definite military advantage.

(c) *Re: Protocol II, article 3*

In the view of the United Kingdom, the military advantage anticipated from an attack is intended to refer to the advantage anticipated from the attack considered as a whole and not only from isolated or particular parts of the attack.

(d) *Re: Protocol III, article 2*

The United Kingdom accepts the provisions of article 2 (2) and (3) on the understanding that the terms of those paragraphs of that article do not imply that the air-delivery of incendiary weapons, or of any other weapons, projectiles or munitions, is less accurate or less capable of being carried out discriminately than all or any other means of delivery.

#### UNITED STATES OF AMERICA

"The United States Government welcomes the adoption of this Convention, and hopes that all States will give the most serious consideration to ratification or accession. We believe 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 this 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.

"At the same time, we want to emphasize that formal adherence by States to agreements restricting the use of weapons in armed conflict would be of little purpose if the parties were not firmly committed to taking every appropriate step to ensure compliance with those restrictions after their entry into force. It would be the firm intention of the United States and, we trust, all other parties to utilize the procedures and remedies provided by this Convention, and by the general laws of war, to see to it that all parties to the Convention meet their obligations under it. The United States strongly supported proposals by other countries during the Conference to include special procedures for dealing with compliance matters, and reserves the right to propose at a later date additional procedures and remedies, should this prove necessary, to deal with such problems.

"In addition, the United States of course reserves the right, at the time of ratification, to exercise the option provided by article 4 (3) of the Convention, and to make statements of understanding and/or reservations, to the extent that it may deem that to be necessary to ensure that the Convention and its Protocols conform to humanitarian and military requirements. As indicated in the negotiating record of the 1980 Conference, the prohibitions and restrictions contained in the Convention and its Protocols are of course new contractual rules (with the exception of certain provisions which restate existing international law) which will only bind States upon their ratification of, or accession to, the Convention and their consent to be bound by the Protocols in question."

##### *Reservation:*

"Article 7 (4) (b) of the Convention shall not apply with respect to the United States."

##### *Declaration:*

The United States declares, with reference to the scope of application defined in article 1 of the Convention, that the United States will apply the provisions of the Convention, Protocol I, and Protocol II to all armed conflicts referred to in articles 2 and 3 common to the Geneva Conventions for the Protection of War Victims of August 12, 1949.

##### *Understandings:*

The United States understands that article 6 (1) of the Protocol II does not prohibit the adaptation for use as booby-traps of portable objects created for a purpose other than as a booby-trap if the adaptation does not violate paragraph (1)(b) of the article.

The United States considers that the fourth paragraph of the preamble to the Convention, which refers to the substance of provisions of article 35 (3) and article 55 (1) of additional Protocol I to the Geneva Conventions for the Protection of War Victims of August 12, 1949, applies only to States which have accepted those provisions.

##### *Reservation:*

"The United States of America, with reference to Article 2, paragraphs 2 and 3, reserves the right to use incendiary weapons against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and/or less collateral damage than alternative weapons, but in so doing will take all feasible precautions with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects."

##### *Understanding:*

"It is the understanding of the United States of America that any decision by any military commander, military personnel, or any other person responsible for planning, authorizing or executing military action shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken."

## **Objections**

*(Unless otherwise indicated, the objections were received upon formal confirmation, ratification, acceptance, approval, accession or succession.)*

### **AUSTRIA**

“The Government of Austria has examined the reservations made by the United States of America upon consent to be bound by 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 (Protocol III).

The Government of Austria finds that the reservation to Article 2, paragraphs 2 and 3 affects essential obligations arising from the Convention and their observance is necessary in order to achieve the purpose of the Convention.

The Government of Austria would like to recall that, according to customary international law as codified in the Vienna Convention on the Law of Treaties (article 19 sub-paragraph c), a reservation incompatible with the object and purpose of a treaty shall not be permitted.

It is in the common interest of States that treaties to which they have chosen to become parties are respected as to their object and purpose, by all parties, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

For these reasons, the Government of Austria objects to the aforementioned reservation made by the United States of America 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 (Protocol III).

This position however does not preclude the entry into force in its entirety of the Convention between the United States of America and Austria.”

### **BELGIUM**

Belgium has examined the reservation made by the United States of America to the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III). Belgium considers that the interpretation of article 2, paragraphs 2 and 3, of Protocol III derived from the wording of the reservation made by the United States could negate the specific object and scope of those provisions, thus leaving the Protocol devoid of any useful effect. For this reason, Belgium wishes to register an objection to this reservation, which it considers to be incompatible with the object and purpose of Protocol III. This objection does not constitute an obstacle to Protocol III remaining in force between Belgium and the United States of America.

### **CYPRUS**

“The Government of the Republic of Cyprus considers that the reservation made by the United States of America with regard to Article 2, paragraphs 2 and 3 of the said Protocol, is incompatible with its object and purpose.

For that reason, the Government of the Republic of Cyprus objects to the aforementioned reservation by the United States of America to Protocol III of the CCW.

This position does not preclude the entry into force of the Convention between the United States of America and the Republic of Cyprus in its entirety.”

### **DENMARK**

“The Kingdom of Denmark notes the reservation made by the United States of America upon its consent to be bound by Protocol III. The reservation appears – with its broad and general formulation – to be contrary to the

object and purpose of the Protocol. On this basis, the Kingdom of Denmark objects to the reservation.

The United States has represented that the reservation is intended to only address the highly specific circumstances such as where the use of incendiary weapons is a necessary and proportionate means of destroying counter-proliferation targets, such as biological weapon facilities requiring high heat to eliminate biotoxins, and where the use of incendiary weapons would provide greater protection for the civilian population than the use of other types of weapons.

The Kingdom of Denmark welcomes this narrowing of the scope of the reservation and the humanitarian considerations underlying the reservation of the United States of America. The Kingdom of Denmark further expresses its willingness to engage in any further dialogue, which may serve to settle differences in interpretation.”

### **FINLAND**

“The Government of Finland has carefully examined the reservation and the text of Article 2, paragraphs 2 and 3, and wishes to express its concerns with respect to the reservation.

Under Article 2, paragraph 2, it is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons. Furthermore, under Article 2, paragraph 3, it is further prohibited to make any military objective located within a concentration of civilians the object of attack by means of incendiary weapons other than air-delivered incendiary weapons, except when such military objective is clearly separated from the concentration of civilians and all feasible precautions are taken with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

Article 2, paragraph 2, allows no exceptions concerning the use of air-delivered incendiary weapons. Therefore, the reservation made by the United States of America in respect of that provision appears to undermine the object and purpose of Protocol III. Furthermore, Article 2, paragraph 3, provides for two conditions for the use of incendiary weapons other than air-delivered ones, both of which have to be met. While noting that the reservation made by the United States of America respects the condition of all feasible precautions, the Government of Finland considers that it fails to take account of the condition that the military objective must be clearly separated from the concentration of civilians. Article 2 does not provide for any exception to this condition. Therefore, the reservation appears to run counter to the object and purpose of the Protocol also in respect of paragraph 3 of Article 2.

Protocol III does not expressly prohibit reservations. However, a reservation should not undermine the object and purpose of the treaty in question. The reservation made by the United States of America appears to undermine the core purpose of Protocol III, that is the protection of civilians.

The Government of Finland has carefully noted the further explanations submitted by the United States. Finland is not, however, fully satisfied that the reservation in light of the explanations can be interpreted as a narrow reservation consistent with the underlying key principles

of international humanitarian law, and with the object and purpose of the Protocol.

The Government of Finland therefore objects to the said reservation and considers that it is without legal effect between the United States of America and Finland. This objection shall not preclude the entry into force of Protocol III between the United States of America and Finland."

#### FRANCE

The Government of the French Republic has examined the reservation made by the United States of America upon acceding to the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III) 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.

By this reservation, the United States of America reserves the right to use incendiary weapons against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and/or less collateral damage than alternative weapons. In so doing, the reservation both excludes the prohibition set out in article 2, paragraph 2, and alters the derogation regime set out in article 2, paragraph 3.

Accordingly, the Government of the French Republic considers this reservation to be contrary to the object and purpose of the Protocol since, despite the assurances given by the United States of America, it cannot guarantee the protection of civilians, which is the *raison d'être* of the Protocol. The Government of the French Republic therefore wishes to register an objection to this reservation. This objection shall not preclude the entry into force of the Protocol between France and the United States of America.

#### GERMANY

"The Federal Republic of Germany has examined the reservation submitted by the United States of America on 21 January 2009 concerning Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons 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) and raises an objection to it.

The Federal Republic of Germany understands that the intention of the reservation submitted by the United States of America is to cause fewer casualties and/or less collateral damage.

However, the Federal Republic of Germany is of the opinion that the reservation is incompatible with the object and purpose of the CCW and Protocol III and that it would leave the decision of whether or not the respective norms of the Protocol should be applied to the discretion of a military commander.

This objection does not preclude the entry into force of Protocol III between the Federal Republic of Germany and the United States of America."

#### GREECE

"The Government of the Hellenic Republic has examined the reservation formulated by the United States of America when notifying its consent to be bound by Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons 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 Government of the Hellenic Republic considers that the reservation submitted by the United States of America with regard to Article 2, paragraphs 2 and 3, which constitute core provisions of the aforementioned Protocol, is incompatible with the object and purpose of the Protocol.

The Government of the Hellenic Republic therefore objects to the abovementioned reservation submitted by the United States of America to Protocol III. This does not preclude the entry into force of the Protocol between the United States of America and Greece."

#### IRELAND

"The Government of Ireland has examined the reservation made on 21 January 2009 by the United States of America to Article 2, paragraphs 2 and 3 of Protocol III 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 upon notification of its consent to be bound thereby.

The provisions to which the aforesaid reservation refers prohibit, with one exception, the use of incendiary weapons against military objectives located within concentrations of civilians. The Government of Ireland regards the reservation made by the United States of America as invalid, inasmuch as it is incompatible with the object and purpose of Protocol III.

The Government of Ireland therefore objects to the aforesaid reservation made by the United States of America.

This objection shall not preclude the entry into force of Protocol III between Ireland and the United States of America."

#### NETHERLANDS (KINGDOM OF THE)

"The Government of the Kingdom of the Netherlands has examined the reservation made by the Government of the United States of America at the time of notifying the depositary of its consent to be bound by the Protocol on prohibitions or restrictions on the use of incendiary weapons (Protocol III).

The Government of the Kingdom of the Netherlands considers that, in respect of paragraph 2 of article 2, the reservation is incompatible with the object and purpose of the Protocol, since it follows from the very language of this provision, being one of the core provisions of the Protocol, that no exception whatsoever is allowed.

The Government of the Kingdom of the Netherlands furthermore considers that, in respect of paragraph 3 of article 2, the reservation must also be deemed to be incompatible with the object and purpose of the Protocol, since it widens the scope of the exception provided for under this paragraph and thereby risks to undermine the compromise nature of one of the core provisions of the Protocol.

According to international law a reservation which is incompatible with the object and purpose of a treaty shall not be permitted.

The Government of the Kingdom of the Netherlands therefore objects to the reservation made by the Government of the United States of America to the Protocol on prohibitions or restrictions on the use of incendiary weapons (Protocol III).

This objection does not constitute an obstacle to the entry into force of the Protocol between the Kingdom of the Netherlands and the United States of America."

#### NORWAY

"... The Government of the Kingdom of Norway has examined the Declaration made by the Government of the United States of America at the time of its consent to be bound by the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III) to the 1980 UN 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 Government of the Kingdom of Norway considers the declaration made by the Government of the United States of America to be a reservation that seeks to limit the scope of the Protocol on a unilateral basis in a way

that is contrary to its object and purpose, namely by limiting the application of the prohibition on the use of incendiary weapons in those situations governed by paragraphs 2 and 3 of its Article 2, to which the declaration refers.

The Government of the Kingdom of Norway recalls that, according to customary international law, as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of the Protocol shall not be permitted.

The Government of the Kingdom of Norway objects to the aforesaid reservation by the Government of the United States of America to the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III) to the United Nations 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. However, this objection shall not preclude the entry into force of the Protocol in its entirety between the two States, without the United States of America benefiting from its reservation.”

#### **POLAND**

“The Government of the Republic of Poland has examined the reservation made by the United States of America upon the ratification of the Protocol on prohibitions or restrictions on the use of incendiary weapons (Protocol III) 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, done at Geneva, 10 October 1980.

The Government of the Republic of Poland considers the above-mentioned reservation as incompatible with the object and purpose of the Convention and therefore objects to it.

This objection shall not preclude the entry into force of the Convention between the Republic of Poland and the United States of America.”

#### **PORTUGAL**

“The Portuguese Republic has examined the reservation made by the Government of the United States of America on 21 January 2009 upon its consent to be bound by Protocol III 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.

The Government of the Portuguese Republic considers that, in respect of paragraph 2 of article 2, being one of the core provisions of the Protocol, the reservation is incompatible with the object and purpose of the Protocol. Moreover, it follows from the provision itself that no exception whatsoever is allowed.

The Government of the Portuguese Republic furthermore considers that, in respect of paragraph 3 of article 2, the reservation must also be deemed to be incompatible with the object and purpose of the Protocol, since it widens the scope of the exception provided for under this paragraph. In addition, it should be underlined that also this paragraph is a core provision of the Protocol.

According to international law, a reservation which is incompatible with the object and purpose of a treaty shall not be permitted.

The Government of the Portuguese Republic therefore objects to the aforesaid reservation made by the Government of the United States of America on 21 January 2009 upon its consent to be bound by Protocol III 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.

This objection shall not preclude the entry into force of the Protocol III between the Portuguese Republic and the United States of America.”

#### **SPAIN**

The Government of the Kingdom of Spain has examined the reservation to article 2, paragraphs 2 and 3, of the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons, presented by the United States of America at the time of its ratification of the Protocol.

The Government of the Kingdom of Spain considers that the said reservation, in the terms in which it was formulated, runs counter to the prohibitions contained in article 2, paragraphs 2 and 3, and is therefore incompatible with the object and purpose of Protocol III.

Consequently, the Government of the Kingdom of Spain objects to the reservation presented by the United States of America to article 2, paragraphs 2 and 3, of the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons.

This objection shall not preclude the entry into force of the Protocol between the Kingdom of Spain and the United States of America.

#### **SWEDEN**

“... the Government of Sweden has examined the reservation made by the Government of the United States of America concerning the latter’s consent, on 21 January 2009, to be bound by Protocol III 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.

According to customary international law, as codified in the Vienna Convention on the Law of Treaties, reservations incompatible with the object and purpose of a treaty shall not be permitted. It is in the common interest of all States that treaties to which they have chosen to become parties are respected as to their object and purpose by all parties, and that States are prepared to undertake any legislative changes necessary to fulfill their obligations under the treaties.

The Government of Sweden notes that the United States of America has made a reservation to the core provisions of Protocol III.

The Protocol provides (Article 2.2) that it is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons. This is a clear-cut ban on the use of air-delivered incendiary weapons. The provision does not allow for any exceptions.

The formulation of the United States of America that it ‘reserves the right to use incendiary weapons against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and/or less collateral damage than alternative weapons, but in so doing will take all feasible precautions with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects’ seems to open for an interpretation that air-delivered incendiary weapons could be used under certain conditions also when military objectives are located within concentrations of civilians. Such an interpretation is neither consistent with the wording of the treaty, nor with the object and purpose of the treaty.

Article 2.3 of the Protocol prohibits the use of attacks by means of incendiary weapons other than air-delivered weapons located within a concentration of civilians. This is the main rule. There is an exception to this main rule and the parameters of the exception are clearly set out in the Article. An attack against a military objective that is clearly separated from the concentration of ‘civilians’ and where ‘all feasible precautions are taken with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and

damage to civilian objects' is not prohibited under the Protocol.

The reservation of the United States appears to disregard the fact that incendiary weapons may only be used under these circumstances. It is, for example, not possible to neglect the requirement that the military objective must be clearly separated from the concentration of civilians.

Hence, this reservation is contrary to the obligation contained in Article 2.3 and inconsistent with the object and purpose of the treaty.

It should be underlined that all States are under an obligation to take feasible precautions before an attack. This follows from customary law and from treaty provisions, including Article 2.3 of the Protocol on incendiary weapons. The duty to take feasible precautions does not remove the obligation to ensure that specific treaty obligations are fulfilled, such as the obligation to ensure that the military objective is clearly separated which goes to the heart of the object and purpose of the treaty.

The reservation of the United States of America concern the core provisions of the Protocol and must therefore also be regarded as incompatible with the object and purpose of the treaty.

The Government of Sweden objects to the aforesaid reservation made by the Government of the United States of America to Protocol III 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 considers the reservation without legal effect. This objection shall not preclude the entry into force of the Convention between the United States of America and Sweden. The Convention enters into force in its entirety between the United States of America and Sweden, without the United States of America benefiting from its reservation."

#### SWITZERLAND

Upon depositing the instrument of ratification of Protocol III to the Convention on Certain Conventional Weapons on 21 January 2009, the United States of America made a reservation with reference to paragraphs 2 and 3 of article 2 of the said Protocol. According to the reservation, the United States "reserve the right to use incendiary weapons against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and/or less collateral damage than alternative weapons, but in so doing will take all feasible precautions with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects".

Switzerland appreciates the willingness expressed by the United States to take all feasible precautions to protect the civilian population and individual civilians not directly participating in hostilities. Switzerland considers that these measures are in keeping with the fundamental principle of distinction under international humanitarian law, a principle that is enshrined, in particular, in articles 57 (2) (ii) and 57 (4) of the first 1977 Protocol Additional to the Geneva Conventions of 1949. These provisions require each party to a conflict to "take all reasonable precautions to avoid losses of civilian lives and damage to civilian objects".

Nonetheless, Switzerland considers that the reservation made by the United States is incompatible with the object and purpose of Protocol III, and therefore it objects to the reservation for the following reasons: in Switzerland's view, paragraphs 2 and 3 of article 2 are core provisions that set out an absolute prohibition of the use of air-delivered incendiary weapons against military objectives located within concentrations of civilians (paragraph 2) and of attacks by means of incendiary weapons other than air-delivered incendiary weapons, except when such military objective is clearly separated from the concentration of civilians (paragraph 3). These provisions were designed as specific rules that replace and strengthen the general customary and treaty obligations arising from international humanitarian law for the purpose of guaranteeing the full protection of civilians from incendiary weapons. The reservation made by the United States does not take into consideration the specific nature of paragraphs 2 and 3 of article 2.

Switzerland considers that this objection does not constitute an obstacle to the entry into force of Protocol III as between Switzerland and the United States of America.

#### UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

"..., this reservation appears to be contrary to the object and purpose of the Protocol insofar as the object and purpose of the Protocol is to prohibit/restrict the use of incendiary weapons per se. On this reading, the United Kingdom objects to the reservation as contrary to the object and purpose of the Protocol.

The United States has, however, publicly represented that the reservation is necessary because incendiary weapons are the only weapons that can effectively destroy certain counter-proliferation targets, such as biological weapons facilities, which require high heat to eliminate the biotoxins. The United States has also publicly represented that the reservation is not incompatible with the object and purpose of the Protocol, which is to protect civilians from the collateral damage associated with the use of incendiary weapons. The United States has additionally stated publicly that the reservation is consistent with a key underlying principle of international humanitarian law, which is to reduce risk to the civilian population and civilian objects from harms flowing from armed conflict.

On the basis that (a) the United States reservation is correctly interpreted as a narrow reservation focused on the use of incendiary weapons against biological weapons, or similar counter-proliferation, facilities that require high heat to eliminate the biotoxins, in the interests of preventing potentially disastrous consequences for the civilian population, (b) the United States reservation is not otherwise intended to detract from the obligation to take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing incidental loss of civilian life, injury to civilians and damage to civilian objects, and (c) the object and purpose of the Protocol can properly be said to be to protect civilians from the collateral damage associated with the use of incendiary weapons, the United Kingdom would not object to the reservation as contrary to the object and purpose of the Protocol."

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#### Notes:

<sup>1</sup> The former Yugoslavia had signed and ratified the Convention on 5 May 1981 and 24 May 1983, respectively,

consenting to be bound by Protocols I, II and III adopted on 10 October 1980. See also note 1 under "Bosnia and Herzegovina", "Croatia", "former Yugoslavia", "Slovenia", "The Former

Yugoslav Republic of Macedonia” and “Yugoslavia” in the “Historical Information” section in the front matter of this volume.

<sup>2</sup> See note 2 under “China” in the “Historical Information” section in the front matter of this volume.

<sup>3</sup> Czechoslovakia had signed and ratified the Convention accepting Protocols I, II and III, on 10 April 1981 and 31 August 1982, respectively. See also note 1 under “Czech Republic” and note 1 under “Slovakia” in the “Historical Information” section in the front matter of this volume.

<sup>4</sup> The German Democratic Republic had signed and ratified the Convention on 10 April 1981 and 20 July 1982, respectively, accepting all three Protocols. See also note 2 under “Germany” in the “Historical Information” section in the front matter of this volume.

<sup>5</sup> A signature was affixed on behalf of the Lao People's Democratic Republic on 2 November 1982, i.e. after the time-limit of 10 April 1982 prescribed by article 3 of the Convention, as a result of an administrative oversight. The signature was cancelled; the Government of the Lao People's Democratic Republic subsequently acceded (on 3 January 1983) to the Convention, accepting the three Protocols.

<sup>6</sup> See note 1 under “Montenegro” in the “Historical Information” section in the front matter of this volume.

<sup>7</sup> For the Kingdom in Europe.

Subsequently, on 28 April 2014, the Government of The Netherlands informed the Secretary-General of the Territorial Application in respect of the Caribbean part of The Netherlands (Islands of Bonaire, Sint Eustatius and Saba).

<sup>8</sup> The protocols concerned are:

- Protocol on non-detectable fragments (Protocol I);
- Protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices (Protocol II);
- Protocol on prohibitions or restrictions on the use of incendiary weapons (Protocol III).

Each participant must consent to be bound by any two or more of the Protocols. Acceptance of a Protocol is denoted by an “X”. Unless otherwise indicated, acceptance was notified upon ratification, acceptance, approval of, accession or succession to the Convention.

Subsequent to the adoption 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 (with Protocols I, II and III), the following Protocols were adopted:

- Additional Protocol 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 (Protocol IV, entitled Protocol on Blinding Laser Weapons) (*see chapter xxvi.2 a*) ;

- Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II 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 (*see chapter xxvi.2 b*) ;

- Protocol on Explosive Remnants of War 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 (Protocol V) (*see chapter xxvi.2 d*) .

Participants may also consent to be bound by these Protocols in order to comply with the requirement set forth in article 4 (3) of the Convention which provides as follows:

“Expressions of consent to be bound by any of the ProtocolConvention shall be optional for each State, provided that at the time of the deposit of its instrument of ratification, acceptance or approval of this Convention or of accession thereto, that State shall notify the Depositary of its consent to be bound by any annexed Protocol by which it is not already bound.”

