

### *THE VIENNA REVIEW CONFERENCE:*

## **SUCCESS ON BLINDING LASER WEAPONS BUT DEADLOCK ON LANDMINES**

The International Committee of the Red Cross welcomes the adoption, by the recent Vienna session of the Review Conference of the 1980 United Nations Convention on Certain Conventional Weapons (CCW), of a new legally binding instrument of humanitarian law prohibiting the use of laser weapons to blind soldiers or civilians. This is only the second time in history that a particularly barbarous form of warfare has been prohibited before it has ever been used. However, the Review Conference, which adjourned on 13 October after three weeks of negotiations, was unable to fulfil its principal mandate of negotiating new restrictions on the use of landmines, which currently kill or maim some 2,000 persons a month.

The ICRC deeply regrets that no agreement was reached on new measures to prohibit or severely restrict the production, use and transfer of anti-personnel landmines. The Conference, which had been nearly two years in preparation, was seen as a unique opportunity to address the humanitarian crisis caused by landmines. Its unfortunate outcome can be attributed both to the excessively technical nature of many of the proposals considered and to the unwillingness of many States to limit the use of landmines to any significant extent and thus enable the Conference to achieve its humanitarian goals.

The ICRC is urging governments and the public to ensure that humanitarian considerations are put at the centre of negotiations when the Review Conference reconvenes in Geneva from 15 to 19 January and from 22 April to 3 May 1996. Furthermore, it is calling for increased efforts to be made at the national and regional levels in order to ensure that humanitarian responsibilities are met even if international agreement on comprehensive measures is not possible in the near future.

## 1. Landmines: progress and new obstacles in Vienna

Although it adjourned in deadlock over a number of important technical issues, the Vienna session of the Review Conference reached substantial agreement in principle on new measures which the ICRC considers important steps forward. Among other things, these measures:

- extend the scope of the CCW's landmine restrictions to cover internal as well as international armed conflicts;
- assign responsibility for the clearance of landmines to those who lay them;
- increase obligations on the part of combatants to protect humanitarian workers, including ICRC and National Red Cross and Red Crescent Society personnel, from landmines so that they can reach people in need;
- require *all*, rather than only certain types of minefields, to be recorded; and
- prohibit the use of mechanisms which cause a mine to explode when an electromagnetic detector, such as those used by mine-clearance teams, comes near it.

However, no agreement was reached on the key restrictions which had been drawn up over the previous two years by the Group of Governmental Experts charged with preparing the Review Conference. These restrictions included the following:

- all anti-personnel mines must be detectable;
- remotely delivered mines must be equipped with a self-destruct mechanism; and
- all hand or machine-emplaced anti-personnel mines used outside marked, guarded and fenced minefields must be equipped with a self-destruct mechanism.

The deadlock in Vienna was due partly to the fact that some governments argued for measures far less restrictive than the ones they had appeared willing to accept in previous meetings of the Group of Governmental Experts. Although most countries accepted the above restrictions in principle, and in many cases supported stronger ones, including a total ban, the disputes which led to deadlock centred on technical aspects such as:

- whether self-neutralizing mines, which remain in the ground indefinitely and must be treated by civilians and clearance teams as if they were live, could be substituted for self-destructing ones;
- whether self-destructing mines should remain active for only 30 days or whether they could remain active for as long as a year;
- whether the maximum permissible failure rate for self-destructing mines should be as low as 1 in 1000 (0.1%) or as high as 100 in 1000 (10%);
- whether a minimum metallic content, such as 8 grams, should be specified so that mines can be detectable after a conflict by currently available means; and
- whether the technical measures listed above (a) should be implemented immediately for all new mines used, (b) should be subject to a "grace period" of up to 15 years, or (c) should be implemented "as soon as feasible".

Most of these technical disputes reflect the inability or unwillingness of certain countries to work towards the humanitarian goals of the Review Conference by making changes in the types of mines they produce or use. Moreover, States promoting new mine technologies were reluctant to consider simpler and more comprehensive measures.

The ICRC regrets the rejection of proposals that would have required anti-tank mines to be detectable and would have prohibited anti-handling mechanisms which cause such mines to explode when clearance teams attempt to remove them. It also regrets that no verification provisions were agreed on.

## 2. Landmines: where do we go from here?

The ICRC remains convinced that the only effective means of ending the scourge of anti-personnel landmines is to impose a total ban on their production, transfer and use. The difficulties encountered in the Vienna negotiations demonstrate, as the ICRC had feared, that the complex and costly technical measures proposed will not solve the landmine crisis. Because many States are either unable or unwilling to make the technical changes suggested, and because the promotion of self-destructing mines could lead to an overall increase in the number of mines used, simpler and more comprehensive measures should now be considered. Not only would such measures be far more effective; in all

likelihood verification would be easier than under the complex regime discussed in Vienna.

In addition to continuing its efforts to increase support for a global ban on anti-personnel landmines, which now has the backing of 168 States, the UN Secretary-General, the heads of numerous UN agencies, the Council of Ministers of the Organization of African Unity, the European Parliament and Pope John Paul II, the ICRC will actively promote two new initiatives:

- a **ban on all transfers** of anti-personnel mines within the framework of the 1980 Convention; and
- **national and regional measures:** stopping landmines does not depend only on the success of international negotiations. States have a moral and political responsibility to end this scourge by acting either unilaterally on their own territory or cooperatively in various regions of the world. The prohibition of the production, transfer and use of anti-personnel mines and a commitment to clear and destroy existing mines, **in the field and in stockpiles**, would be an important step towards protecting one's own population and territory from their devastating effects. In post-conflict situations such measures could strengthen a country's case for mine-clearance assistance from the international community. Their adoption would also contribute significantly to the elimination of anti-personnel mines worldwide.

On 22 November 1995, for the first time in its history, the ICRC launched an international media campaign aimed at mobilizing public opinion and stigmatizing anti-personnel mines. The campaign will make use of free television, radio and print advertising to heighten public awareness of the human cost of landmines and increase pressure for change. The campaign will be taken up by National Red Cross and Red Crescent Societies in 1996.

At the *national level* the ICRC urges States to begin immediate and unilateral implementation of the measures to protect civilians which they advocated at the Review Conference. In addition, increased public pressure will be needed to ensure:

- the maintenance and strengthening of existing moratoria on the international transfer of anti-personnel mines (i.e. partial or temporary moratoria must be replaced with comprehensive and permanent measures);
- accession to the 1980 Convention, including its four Protocols, by States that are not yet party to it; and

- active participation in the 1996 sessions of the Review Conference and support there for the most stringent measures, including a total ban on anti-personnel mines.

The deadlock in Vienna suggests that many political leaders have not yet grasped the magnitude of the landmine crisis. Nor have they come to realize that the human, social and economic costs of these weapons outweigh their limited military utility. States participating in the future sessions of the Review Conference should be urged to place humanitarian concerns at the very centre of their negotiations and to include humanitarian experts in their delegations. These sessions will only succeed if States are able to rise above their narrow national interests in the general interest of humanity.

### **3. Vienna's historic success: blinding laser weapons**

The adoption in Vienna of a new fourth Protocol prohibiting the use of blinding laser weapons represents a significant breakthrough in international humanitarian law. The prohibition of an abhorrent new weapon whose production and proliferation appeared imminent is an historic step for humanity. This is the first time since the use of exploding bullets was prohibited in 1868 that a weapon of military utility has been banned before it has been used on the battlefield and before a vast number of victims have given visible proof of its tragic effects.

The new Protocol prohibits both the use and the transfer of laser weapons specifically designed to cause permanent blindness as one of their combat functions. It also requires States to take all feasible precautions, including the training of their armed forces, to avoid permanent blinding through the legitimate use of other laser systems. This is the first time that *both the use and the transfer* of a weapon have been entirely prohibited under international humanitarian law.

Efforts to have this Protocol adopted were initiated by Sweden and Switzerland at the 1986 International Conference of the Red Cross and Red Crescent and pursued by the ICRC, which convened four international meetings of experts on this issue between 1989 and 1991. The results of these meetings were published in *Blinding Weapons*, the primary reference work on the subject. In recent years the issue has been addressed by a growing number of non-governmental organizations, including those representing war veterans and the blind.

Although the new Protocol currently applies to international conflicts alone, it was generally agreed in Vienna that it should also cover non-international conflicts. It was understood that the wording of any future provisions extending the scope of the Protocol to internal conflicts would be the same as that adopted for the landmines Protocol.

The ICRC stresses the importance of vigorous national efforts to ensure that the new Protocol is widely accepted by States and effectively implemented. In particular, it calls on States to:

- declare themselves bound by the Protocol at the earliest possible date;
- adopt national measures to prevent the production, transfer, use and proliferation of blinding laser weapons.

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Though disappointing, the deadlock on landmines shows that States were unwilling to paper over substantial differences and accept weak or ineffective measures in Vienna. This is a good sign, reflecting the fact that strong public pressure had been put on the Review Conference to achieve significant results and that many governments were committed to take decisive action. An end has now been put to the consensus that landmines are just another weapon of war, and this in itself is a step towards their stigmatization.

The international community is not powerless to deal with the scourge of landmines. As when it sought to abolish apartheid and impose a ban on chemical, biological and blinding laser weapons, it can and will succeed. Such efforts can last for years, even decades, but in pursuing the struggle individuals and governments are not only upholding fundamental standards of civilization; they are also affirming their common humanity.