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Chron File - March 1994 #2 [6]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Lynn Davis et al. Subject: IWG on Provisional Application of Selected START Provisions. (1 page)	03/24/1994	P1/b(1)
001b. list	[CIA Act] [partial] (1 page)	03/24/1994	P3/b(3)
002a. memo	For William Itoh from Peter Feaver. Subject: Significant Military Exercise INSPIRED SIREN 94-2. (1 page)	03/24/2199	P1/b(1)
002b. memo	For Executive Secretary, National Security Council. Subject: Significant Military Exercise - INSPIRED SIREN 94-2. (1 page)	03/18/1994	P1/b(1)
002c. cable	re: Significant Military Exercise Brief (SMEB) for Inspired Siren 94-2. (1 page)	02/23/1994	P1/b(1)
002d. letter	To Maxwell Alston from Robert F. Carty. (2 pages)	03/15/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
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Chron File - March 1994 #2 [6]

2016-0152-F

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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 23, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT G. BELL *RG*
FROM: ANNE WITKOWSKY *AW*
SUBJECT: 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)

The attached memorandum for the President recommends that he: (1) transmit the Convention on Conventional Weapons (CCW), together with its Protocols on Non-Detectable Fragments and Mines, to the Senate for advice and consent to ratification; and (2) defer the issue of ratification of the Incendiaries Protocol.

The CCW was concluded at Geneva on October 10, 1980, and signed by the United States in 1982. It has three protocols, each addressing different types of munitions. Protocol I prohibits the use of any weapon the primary effect of which is to injure by fragments which cannot be detected by X-ray. Protocol II regulates the use of landmines and booby traps. Protocol III prohibits the use of air-delivered incendiaries in areas containing concentrations of civilians.

The Mines Protocol is the most important of these provisions. Although it does not go as far as we would want, it does provide useful restrictions on the use of these weapons. Had these restrictions been observed in the conflicts of the past decade considerable civilian casualties would have been avoided (the U.S., even though not a party, has observed this Protocol). More important, U.S. ratification would enable us to take the lead in pressing for substantial improvements to this Protocol, would strengthen our efforts to encourage countries to adopt a moratorium on export of all anti-personnel landmines, and would assist us once we are ready to begin discussions of a more lasting export control regime.

State, ACDA, OSD and JCS concur in the ratification of the Convention, including acceptance of Protocols I and II. However, JCS has expressed significant concerns regarding ratification of the Incendiaries Protocol, particularly with respect to the prohibition on the use of air-delivered incendiaries in certain situations in areas where there are concentrations of civilians. Resolution of these problems will take considerable time at best, and may present serious political and humanitarian issues that would require consultation with our allies and with Congress. We do not want to delay or complicate ratification of the Convention

(including the Mines Protocol) by holding up its submission to the Senate until this issue is resolved.

In addition, a Review Conference on the CCW has been called for by the United Nations, and is likely to take place in 1995. A series of Government Experts Meetings is to take place in 1994 to seek improvements to the CCW, particularly the Mines Protocol. Only parties to the CCW can be full participants at the Review Conference. Early ratification is thus particularly important.

Accordingly, Secretary Christopher has recommended in his Report, and all other agencies concerned (OSD, JCS, and ACDA) agree, that we should submit only two of the Protocols to the Senate at this time and defer the issue of ratification of the Incendiaries Protocol. Under Secretary of Defense Wisner has concurred with this approach for DOD.

Congress has also twice enacted legislation calling on the President to submit the CCW, contained in its landmine export moratorium amendments in both the FY93 and FY94 DOD Authorization Acts. In response to a recent letter from Senator Leahy urging the Administration to submit the CCW to the Senate early this year, the President responded that he intended to so.

We believe that the President should submit the Convention to the Senate at this time, with appropriate understandings.

The attached Report to the President from Secretary Christopher, section-by-section analysis and proposed Message from the President to the Senate have been prepared for the purpose of transmitting the Convention to the Senate for its advice and consent to ratification. State has cleared these documents with DOD (including JCS) and ACDA.

Concurrences by: *In draft* Alan Kreczko, *In draft* Jeremy Rosner, *In draft* Eric Schwartz
and Mort Halperin
In draft

RECOMMENDATION

That you sign the memo for the President at Tab I, and thereby recommend (1) transmittal of the CCW to Congress, with its Protocols I and II, and (2) deferral of the issue of ratification of the Incendiaries Protocol.

Attachments

Tab I	Memo to the President
Tab A	Message from the President to the Senate
Tab B	Report to the President from Secretary Christopher
Tab C	Section-by-Section Analysis
Tab D	The Convention on Conventional Weapons

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: ANTHONY LAKE
SUSAN BROPHY

SUBJECT: 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)

Purpose

To approve transmittal of the Convention on Conventional Weapons (CCW), together with its Protocols on Non-Detectable Fragments and Mines, to the Senate for advice and consent to ratification; and (2) defer the issue of ratification of the Incendiaries Protocol.

Background

The CCW was concluded at Geneva on October 10, 1980, and signed by the United States in 1982. It has three protocols, each addressing different types of munitions. Protocol I prohibits the use of any weapon the primary effect of which is to injure by fragments which cannot be detected by X-ray. Protocol II regulates the use of landmines and booby traps. Protocol III prohibits the use of air-delivered incendiaries in areas containing concentrations of civilians.

The Mines Protocol is the most important of these provisions. Although it does not go as far as we would want, it does provide useful restrictions on the use of these weapons. Had these restrictions been observed in the conflicts of the past decade considerable civilian casualties would have been avoided (the U.S., even though not a party, has observed this Protocol). More important, U.S. ratification would enable us to take the lead in pressing for substantial improvements to this Protocol and would strengthen our efforts to encourage countries to adopt a moratorium on export of all anti-personnel landmines.

State, DOD and ACDA concur in the ratification of the Convention, including acceptance of Protocols I and II. However, the Joint Staff, after coordinating with the Services and the CINCs, has expressed significant concerns regarding ratification of the Incendiaries Protocol, particularly with respect to the

cc: Vice President
Chief of Staff

prohibition on the use of air-delivered incendiaries in certain situations in areas where there are concentrations of civilians. Resolution of these problems will take considerable time at best, and may present serious political and humanitarian issues that would require consultation with our allies and with Congress. We do not want to delay or complicate ratification of the Convention (including the Mines Protocol) by holding up its submission to the Senate until this issue is resolved.

In addition, a Review Conference on the CCW has been called for by the United Nations, and is likely to take place in 1995. A series of Government Experts Meetings is to take place in 1994 to seek improvements to the CCW, particularly the Mines Protocol. Only parties to the CCW can be full participants at the Review Conference. Early ratification is thus particularly important.

Accordingly, Secretary Christopher has recommended in his Report to you, and DOD and ACDA agree, that we should submit only two of the Protocols to the Senate at this time and defer the issue of ratification of the Incendiaries Protocol.

Congress has also twice enacted legislation calling on the Administration to submit the CCW, contained in its landmine export moratorium amendments in both the FY93 and FY94 DOD Authorization Acts. In response to a recent letter from Senator Leahy urging the Administration to submit the CCW to the Senate early this year, you responded that you intended to do so.

I believe that you should submit the Convention to the Senate at this time, with appropriate understandings.

RECOMMENDATION

That you sign the Message to the Senate and thereby (1) approve transmittal of the Convention, with its Protocols I and II, Secretary Christopher's Report to you, and the section-by-section analysis, to the Congress and (2) approve deferral of the issue of ratification of the Incendiaries Protocol.

Attachments

Tab A	Message to the Senate
Tab B	Report from Secretary Christopher
Tab C	Section-by-Section Analysis
Tab D	The Convention on Conventional Weapons

TO THE SENATE OF THE UNITED STATES:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May Be Deemed to be Excessively Injurious or to have Indiscriminate Effects (the Convention), and two accompanying Protocols on Non-Detectable Fragments (Protocol I) and on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and other Devices (Protocol II). Also enclosed for the information of the Senate is the report of the Department of State on the Convention and its Protocols.

The Convention was concluded at Geneva on October 10, 1980, was signed by the United States on April 8, 1982, and entered into force on December 2, 1983. More than 30 countries have become Party to the Convention. It constitutes a modest but significant humanitarian effort to protect the victims of armed conflict from the effects of particular weapons. It will supplement prohibitions or restrictions on the use of weapons contained in existing treaties and customary international law, including the prohibition on the use in war of chemical and bacteriological weapons in the Geneva Protocol of June 17, 1925. It will provide a basis for effective controls on the widespread and indiscriminate use of landmines, which has caused widespread

civilian casualties in recent conflicts.

The Convention and its Protocols restrict, for humanitarian reasons, the use in armed conflicts of three specific types of conventional weapons. Protocol I prohibits the use of weapons that rely on fragments not detectable by X-ray. Protocol II regulates the use of landmines and similar devices for the purpose of reducing the danger to the civilian population caused by the indiscriminate use of such weapons, and prohibits certain types of booby-traps. Protocol III restricts the use of incendiary weapons in populated areas.

The United States signed the Convention on April 8, 1982. Since then, it has been subject to detailed inter-agency reviews. Based on these reviews, I have concluded that the United States should become a party to the Convention and to its Protocols I and II. As described in the report of the Secretary of State, there are concerns about the acceptability of Protocol III from a military point of view which require further examination; I therefore recommend that in the meantime the United States exercise its right under Article 4 of the Convention to accept only Protocols I and II.

I believe that United States ratification of the Convention and its Protocols I and II will underscore our commitment to the principle that belligerents must refrain from weapons or methods of warfare which are inhumane or unnecessary from a military standpoint. I am also mindful of the strong sense of the Congress that the Convention should be submitted to the Senate

for advice and consent to ratification, as evidenced in Section 1365 of the National Defense Authorization Act for Fiscal Year 1993 (October 23, 1992, Public Law 102 - 484) and Section 1423 of the National Defense Authorization Act for Fiscal Year 1994 (November 30, 1993, Public Law 103-160).

More specifically, by becoming Party, we will encourage the observance by other countries of restrictions on landmines and other weapons which U.S. armed forces and those of our Allies already observe as a matter of humanity, common sense, and sound military doctrine. The United States will be able to take the lead in negotiating improvements to the Mines Protocol so as to deal more effectively with the immense threat to the civilian population caused by the indiscriminate use of those weapons. It will strengthen our efforts to encourage adoption of a moratorium on export of all anti-personnel landmines.

I therefore recommend that the Senate give early and favorable consideration to the Convention and its Protocols I and II and give its advice and consent to ratification subject to the conditions contained in the report of the Department of State.

THE WHITE HOUSE,

DEPARTMENT OF STATE
WASHINGTON

March 21, 1994

The President:

I have the honor to submit to you 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, concluded at Geneva on October 10, 1980, signed by the United States on April 8, 1982 and entered into force on December 2, 1983.

Background

The Convention is part of the legal regime dealing with the conduct of international armed conflict, including the four 1949 Geneva Conventions on the Protection of the Victims of War and the 1899 and 1907 Hague Conventions Respecting the Laws and Customs of War on Land. These significant treaties attempt to reduce the suffering caused by armed conflicts and to provide protection to the victims of war, including the civilian population and members of the armed forces who have been wounded or captured. They are an attempt to reduce the inevitable suffering and damage present during any war in a manner consistent with legitimate military requirements.

The United States has traditionally been at the forefront of efforts to improve this area of law. The United States has participated actively in all of

The President,

The White House.

the significant international negotiations on the laws of armed conflict. Each treaty produced has received extensive inter-agency review to determine whether it is consistent with our humanitarian values and legitimate military requirements and whether the United States should become a party.

At the time the Convention was negotiated, there were already a number of international rules on the use of particular weapons in time of war. These include: the prohibition in the 1907 Hague Regulations on the Laws and Customs of War on the use of poison or poisoned weapons and the use of ". . . arms, projectiles, or material calculated to cause unnecessary suffering"; the prohibition on explosive anti-personnel projectiles in the 1868 St. Petersburg Declaration; the prohibition on expanding (or "dum-dum") bullets in the 1899 Hague Declaration; and the important prohibition on the use of chemical and bacteriological weapons contained in the Geneva Protocol of June 17, 1925. However, these rules did not significantly affect the use of landmines and incendiaries, which were commonly thought to present special risks to the civilian population.

The Conventional Weapons Convention

The Convention was negotiated in Geneva under the auspices of the United Nations after extensive multilateral negotiations, first in the 1974-1977 Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law in Armed Conflict (which was convened by the Swiss Government), and then in a separate conference under United Nations auspices in Geneva.

The Convention was adopted on October 10, 1980 after two preparatory conferences (in 1978 and 1979) and two sessions of the main conference (in 1979 and 1980). At first, determined attempts were made during these negotiations to adopt broad prohibitions or restrictions that were clearly unacceptable to the United States and other western countries, including prohibitions on anti-personnel use of fragmentation weapons, incendiaries and high-velocity small-caliber projectiles (such as the ammunition for the M-16 rifle). In the end, however, the UN Conference adopted more limited restrictions on specific types of weapons.

The Convention contains three Protocols. Protocol I prohibits the use of any weapon the primary effect of which is to injure by fragments which in the human body escape detection by X-rays. We are not aware of any significant current attempt to develop or produce such a weapon, but the prohibition is in principle desirable from a humanitarian viewpoint and in no way constrains U.S. military options.

Protocol II contains a detailed set of restrictions on the use of landmines and booby-traps, including: (1) requirements concerning the recording of the location of minefields, and the disclosure of their location after the cessation of active hostilities; (2) special restrictions on the use of mines delivered by aircraft or artillery; (3) additional requirements relating to the use of certain mines and booby-traps in areas containing concentrations of civilians; and (4) prohibitions on

types of booby-traps thought likely to be perfidious or to pose unnecessary danger to civilians. This Protocol was essentially a Western proposal, and on the whole it basically codified the responsible practices which had already been adopted by the United States and other Western military forces to minimize civilian casualties from the use of these devices.

It is now widely recognized that the massive and indiscriminate use of landmines that has taken place during the past two decades presents a serious danger to the civilian populations. In countries like Afghanistan, Cambodia and Angola, large numbers of mines have been laid without proper marking and recording, and often for the specific purpose of causing civilian casualties. Protocol II is not a complete answer to this problem, but its observance in these conflicts could have substantially reduced this terrible carnage. Furthermore, its ratification by the United States would put us in a better position to encourage the improvement and enforcement of the Protocol, as well as to pursue the moratorium on exports of landmines which we have already proposed.

Protocol III contains various restrictions on the use of incendiary weapons. It reiterates the applicability to incendiaries of various existing principles of law, and imposes a small number of new restrictions. The most significant of these is the prohibition in Article 2(2) of the Protocol on making any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons.

Concerns have been raised about the acceptability of the restrictions of Protocol III from military and humanitarian points of view. These concerns relate to the possible need to use air-delivered incendiaries in certain situations. For example, the concern has been expressed that the use of air-delivered incendiaries may be needed to eliminate chemical or biological facilities without exposing the nearby civilian population to the massive release of dangerous substances. In light of these concerns, I recommend that this Protocol be given further study by the interagency community, and that in the meantime the United States exercise its right under Article 4 of the Convention to accept only Protocols I and II. Therefore the U.S. instrument of ratification should state that: "In accordance with Article 4, Paragraph 3 of the present Convention, the United States consents to be bound by Protocols I and II of the present Convention."

I believe the United States should proceed now with ratification. Congress has also urged ratification, as evidenced in Section 1365 of the National Defense Authorization Act for Fiscal Year 1993 (October 23, 1992, Public Law 102-484) and Section 1423 of the National Defense Authorization Act for Fiscal Year 1994 (November 30, 1993, Public Law 103-160). In particular, the indiscriminate use of landmines and booby-traps in recent conflicts demonstrates the urgent need for the adoption, implementation and improvement of Protocol II. This Protocol, which is consistent with military

requirements, will, if improved and implemented, greatly reduce the dangers that the civilian population and others (including peacekeeping forces) would otherwise be exposed to.

Conditions

United States ratification should be subject to the following conditions which are described in detail in the accompanying analysis of the Convention's provisions.

1. The United States considers that the fourth paragraph of the Preamble to the present Convention, which reproduces the substance of provisions of Article 35, Paragraph 3 and Article 55, Paragraph 1 of Additional Protocol I, applies only to States which have accepted those provisions;
2. The United States declares, with reference to the scope of application defined in Article I of the present Convention, that it will apply the provisions of the present Convention to all armed conflicts referred to in Articles 2 and 3 common to the Geneva Conventions of 12 August 1949;
3. The United States declares that Article 7, Paragraph 4(b) of the present Convention will have no effect; and
4. The United States understands that Article 6, Paragraph 1(a) of Protocol II to the present Convention does not prohibit the adaptation in advance of other objects for use as booby-traps.

Conclusion

I believe that the Convention and its Protocols I and II contain reasonable restrictions which have real humanitarian benefit. They are consistent with Western military requirements, and are already consistent with U.S. military practices. Action by the United States to accept these rules will underscore our commitment on restricting or prohibiting unacceptable methods of warfare, and will materially advance our efforts to deal with the serious threat posed by indiscriminate use of landmines.

The Department of State and the Department of Defense join in recommending that the Convention and its Protocols I and II be submitted to the Senate for advice and consent to ratification at an early date.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Warren Christopher".

Attachment:

Detailed Analysis of Provisions

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:

Section-by-Section Analysis of Provisions

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 was concluded at Geneva on October 10, 1980. It consists of twelve preambular clauses, eleven operative articles, and three annexed protocols, one of which has a technical annex. The Convention text itself is merely a framework document containing procedural and formal provisions, while the substantive provisions are contained in the three annexed protocols.

The Preamble

Paragraph 1 of the Preamble recalls the principle contained in Article 2(4) of the UN Charter that prohibits the use of force in international relations against the sovereignty, territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the UN.

Paragraphs 2 and 3 recall certain principles recognized by the customary international law of armed conflict, namely the general principle of protection of the civilian population against the effects of hostilities, and the prohibition on means and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.

Paragraph 4 recalls the substance of provisions of Protocol I Additional to the 1949 Geneva Conventions, which adopted a new prohibition relating to the use of means or methods of warfare that are intended or may be expected to cause widespread, long-term and severe damage to the natural environment. The United States has not ratified Protocol I, and the Executive branch has not yet completed its review of that Protocol. Accordingly, U.S. ratification should include a statement that this provision applies only to states which have accepted those provisions.

Paragraphs 5-10 express a number of objectives sought by the majority of the states represented at the diplomatic conference that produced the Convention, including an end to the arms race, the progressive development of the rules of war, and negotiated limitations on conventional stockpiles.

Paragraphs 11 and 12 refer to the possibility that the UN General Assembly, the UN Disarmament Commission and the Committee on Disarmament might decide to consider similar restrictions on the use of conventional weapons. Efforts are now under way to conduct a formal review of the Convention by States Parties, with particular emphasis on improvements to the Protocol on landmines.

Article 1

Article 1 states the scope of application of the Convention. It provides that the Convention and its annexed protocols shall apply in the situations referred to in Article 2 common to the 1949 Geneva Conventions, including any situation described in

Article 1(4) of Protocol I Additional to those Conventions. The reference to common Article 2 incorporates the traditional definition of international armed conflicts, namely conflicts between states or the occupation by one state of the territory of another. The treatment of "national liberation" wars in Article 1(4) of Protocol I, however, is objectionable, for reasons described more fully in the discussion of the related provisions of Article 7 below. Accordingly, U.S. ratification of the Convention should be subject to a declaration as proposed in the discussion of Article 7.

Article 2

Article 2 provides that nothing in the Convention detracts from other obligations imposed by international humanitarian law in armed conflict. This would include obligations under the four 1949 Geneva Conventions, the 1899 and 1907 Hague Conventions, and the prohibitions on the use of "dum-dum" bullets and chemical and bacteriological weapons.

Articles 3-11

These articles for the most part incorporate typical final clauses of an international convention. They include provisions for ratification, amendment and possible denunciation with one year's notice. They provide for the possible convening of a review conference to consider amendments (which would enter into force in the same manner as the Convention itself). Such a review conference has been requested and will convene during the next two years to consider possible improvements

to the Convention. On ratification of the Convention, a state may accept all three of the annexed protocols or any two of the three. There are no provisions on reservations.

One provision in these articles is objectionable. Paragraph 4 of Article 7 of that article provides that the Convention applies to the wars of "national liberation" identified in Article 1(4) of Protocol I Additional to the 1949 Geneva Conventions. (Article 1(4) of Additional Protocol I would apply the rules of international armed conflict to any armed conflict "in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination") In the case of a state that is party to the Convention but not to Additional Protocol I, an "authority" representing a "liberation movement" would, under this provision, be entitled to the protections of the 1949 Geneva Conventions (including those conferring prisoner-of-war status) if it accepts and applies those Conventions.

In our view, Article 1(4) of Additional Protocol I injects subjective and politically controversial standards into international humanitarian law and undermines the important traditional distinction between international and non-international armed conflicts. Accordingly, the United States should not accept the validity of Article 1(4) as a basis for the application of the rules of humanitarian law. We recommend that the United States declare, at the time of ratification of the Convention, that Article 7

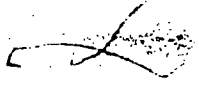
will have no effect. During the coming Review Conference on the Convention, it is our intention to support an amendment extending the Convention to all internal armed conflicts. This would have the effect of applying the requirements of the Convention to all armed conflicts, whatever their political character, without giving special preference and status to "liberation wars".

To demonstrate our support for humanitarian concerns, we should formally state, at the time of U.S. ratification, our intention to apply the provisions of the Convention to all international and non-international armed conflicts, as defined in common Articles 2 and 3 of the Geneva Conventions.

The Convention currently contains no provisions on verification or enforcement of its provisions. At the conference which adopted the Convention the United States proposed a mechanism for international investigation of possible violations, but was unable to secure its adoption because of strong opposition from the Soviet bloc. It is our intention to support adoption of such a provision during the upcoming international review of the Convention.

Protocol on Non-Detectable Fragments (Protocol I)

This Protocol prohibits the use of any weapon the primary effect of which is to injure by fragments which in the human body escape detection by X-rays. This provision was designed to preclude the use of weapons using non-detectable fragments (such as glass or light plastic) as the primary wounding mechanism. Such weapons were regarded as likely to complicate or



preclude effective medical treatment for no legitimate military purpose. However, this provision does not preclude non-metallic casing materials or other parts or components which are not designed as the primary wounding mechanism. The United States has no weapons of the type prohibited by this provision and no interest in acquiring them, nor to our knowledge do any western military establishments. The Protocol is therefore unobjectionable, and the United States should accept it at the time of ratification.

Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II)

As stated in Article 1, the Protocol imposes a series of restrictions on the use of landmines, booby-traps and certain other delayed-action weapons. It applies to mines laid to interdict beaches, waterway crossings or river crossings, but does not apply to the use of anti-ship mines at sea or in inland waterways. Article 2 contains a series of definitions of terms used in the Protocol.

Article 3 sets forth a series of general restrictions on the use of these weapons, which are taken from principles of customary international law applicable to all types of conventional weapons. In particular, the article prohibits directing such weapons against the civilian population as such or against individual civilians, as well as the indiscriminate use of such weapons, and requires that all feasible precautions be taken to protect civilians from the effects of such weapons,

taking all circumstances into account, including humanitarian and military considerations.

Article 4 sets forth a series of more specific restrictions on the use of mines in populated areas. Such weapons may only be used in cities, towns, villages or other areas containing a similar concentration of civilians if: (1) combat between ground forces is taking place or appears imminent; (2) these weapons are placed in the close vicinity of a military objective under the control of an adverse party; or (3) measures are taken to protect civilians, such as the posting of warning signs, the posting of sentries, the issuance of warnings or the erection of fences.

Article 5 deals with remotely-delivered mines, that is, mines delivered by aircraft or artillery. It requires: (1) that such mines only be used against an area which is itself a military objective or contains military objectives; (2) that their location be accurately recorded or that they be equipped with an effective neutralizing mechanism which destroys the mine or renders it harmless when it no longer serves the military purpose for which it was placed in position; and (3) that effective advance warning be given when such mines are used where they may affect the civilian population, unless circumstances do not permit.

Article 6 deals with booby-traps, that is, devices which kill or injure and which function unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act. Paragraph 1(a) prohibits the use of any

booby-trap in the form of an apparently harmless portable object which is specifically designed and constructed to contain explosive material. This does not prohibit the adaptation for booby-trap use of objects not designed or constructed for that purpose, and an understanding should be adopted at the time of ratification to make that clear. Such improvisation of booby-traps, for example to retard an enemy advance, does not pose the same sort of danger to the civilian population as the mass production of objects specifically designed as booby-traps toward which the provision was directed.

Paragraph 1(b) of Article 6 prohibits booby-traps attached to or associated with any of a series of objects thought to pose particular dangers to civilians or other protected persons, including: internationally recognized protective emblems; sick, wounded or dead persons; medical facilities or equipment; children's toys or objects specially designed for children; and food or drink. Paragraph 2 prohibits booby-traps designed to cause superfluous injury or unnecessary suffering (a principle of customary international law applicable to all weapons).

Article 7 deals with the recording and publication of the location of mines and booby-traps. Parties are required to record the location of all pre-planned minefields laid by them, and all areas in which they have made large-scale and pre-planned use of booby-traps. They are to endeavor to ensure the recording of the location of other mines and booby-traps, but are not strictly required

to do so where operational requirements make that impracticable. All such records must be retained. Immediately after the cessation of active hostilities, the party which laid the mines must take all necessary and appropriate measures to protect civilians from their effects, and make information on the location of the mines available to the appropriate parties.

Article 8 contains special requirements to protect the personnel of UN peacekeeping forces. Upon the request of the head of such a force, each party to a conflict is required, so far as it is able, to remove mines or render them harmless, to take such measures as may be necessary to protect the UN force from the effects of such mines, and to make available to the head of that force all information in its possession concerning the location of such mines. As a matter of policy, the United States will encourage observance of the provisions of Article 8 with respect to non-UN peacekeeping forces in which our armed forces participate.

Article 9 provides that, after the cessation of active hostilities, the parties shall endeavor to reach agreement on the provision of information and technical and material assistance for the purpose of facilitating the removal of mines and booby-traps laid during the course of the conflict. No specific obligation exists to provide any particular type of assistance.

Finally, the Protocol contains a technical annex providing guidelines for recording the location of minefields, mines and booby-traps, which are to be

taken into account in carrying out the requirements of the Protocol, but which are not strictly mandatory.

The provisions of this Protocol essentially reflect the practices already adopted by western military forces for the protection of the civilian population. Their observance by other countries could help substantially to reduce casualties among civilians and peacekeeping forces that may result from these weapons. The Protocol is therefore desirable and consistent with U.S. military interests, and the United States should accept it upon ratification of the Convention.

At the same time, we recognize that these provisions do not provide a complete solution to the serious problem of indiscriminate use of these devices. Accordingly, it is our intention, during the upcoming international review of the Convention, to support amendments that would strengthen the requirements of Protocol II, with particular attention to requirements on recording and marking, on self-destructive mechanisms, and on other precautions to protect the civilian population. We also intend to press forward in other international fora with our recent proposal for a moratorium on the export of all anti-personnel landmines.

اتفاقية حظر أو تقيد استعمال أسلحة تقيدية
ممنوعة بغير اعتبارها بخرطة القنابل أو
عنوايتها الأشر

禁止或限制使用某些可被认为具有过份伤害力
或滥杀滥伤作用的常规武器公约

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

CONVENTION SUR L'INTERDICTION OU LA LIMITATION DE L'EMPLOI DE
CERTAINES ARMES CLASSIQUES QUI PEUVENT ETRE CONSIDEREES COMME
PRODUISANT DES EFFETS TRAUMATIQUES EXCESSIFS OU COMME FRAPPANT
SANS DISCRIMINATION

КОНВЕНЦИЯ О ЗАПРЕЩЕНИИ ИЛИ ОГРАНИЧЕНИИ ПРИМЕНЕНИЯ
КОНКРЕТНЫХ ВИДОВ ОБЫЧНОГО ОРУЖИЯ, КОТОРЫЕ МОГУТ
СЧИТАТЬСЯ НАНОСЯЩИМИ ЧРЕЗМЕРНЫЕ ПОРЯЖЕНИЯ ИЛИ
ИМЕЮЩИМИ НЕИЗБЫРАТЕЛЬНОЕ ДЕЙСТВИЕ

CONVENCION SOBRE PROHIBICIONES O RESTRICCIONES DEL EMPLEO
DE CERTAS ARMAS CONVENCIONALES QUE PUEDAN CONSIDERARSE
EXCESIVAMENTE NOJIVAS O DE EFECTOS INDISCRIMINATORIOS

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 High Contracting Parties,

Recalling that every State has the duty, in conformity with the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Further recalling the general principle of the protection of the civilian population against the effects of hostilities,

Basing themselves on the principle of international law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, and on the principle that prohibits the employment in armed conflicts of weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering,

Also recalling that it is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment,

Confirming their determination that in cases not covered by this Convention and its annexed Protocols or by other international agreements, the civilian population and the combatants shall at all times remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience,

Desiring to contribute to international détente, the ending of the arms race and the building of confidence among States, and hence to the realization of the aspiration of all peoples to live in peace,

Recognizing the importance of pursuing every effort which may contribute to progress towards general and complete disarmament under strict and effective international control,

Reaffirming the need to continue the codification and progressive development of the rules of international law applicable in armed conflict,

Wishing to prohibit or restrict further the use of certain conventional weapons and believing that the positive results achieved in this area may facilitate the main talks on disarmament with a view to putting an end to the production, stockpiling and proliferation of such weapons,

Emphasizing the desirability that all States become parties to this Convention and its annexed Protocols, especially the militarily significant States,

Bearing in mind that the General Assembly of the United Nations and the United Nations Disarmament Commission may decide to examine the question of a possible broadening of the scope of the prohibitions and restrictions contained in this Convention and its annexed Protocols,

Further bearing in mind that the Committee on Disarmament may decide to consider the question of adopting further measures to prohibit or restrict the use of certain conventional weapons,

Have agreed as follows:

Article 1

Scope of application

This Convention and its annexed Protocols shall apply in the situations referred to in Article 2 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, including any situation described in paragraph 4 of Article 1 of Additional Protocol I to these Conventions.

Article 2

Relations with other international agreements

Nothing in this Convention or its annexed Protocols shall be interpreted as detracting from other obligations imposed upon the High Contracting Parties by international humanitarian law applicable in armed conflict.

Article 3

Signature

This Convention shall be open for signature by all States at United Nations Headquarters in New York for a period of twelve months from 10 April 1981.

Article 4

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval by the Signatories. Any State which has not signed this Convention may accede to it.
2. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.
3. Expressions of consent to be bound by any of the Protocols annexed to this Convention 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 two or more of these Protocols.
4. At any time after the deposit of its instrument of ratification, acceptance or approval of this Convention or of accession thereto, a State may notify the Depositary of its consent to be bound by any annexed Protocol by which it is not already bound.
5. Any Protocol by which a High Contracting Party is bound shall for that Party form an integral part of this Convention.

Article 5

Entry into force

1. This Convention shall enter into force six months after the date of deposit of the twentieth instrument of ratification, acceptance, approval or accession.

2. For any State which deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the twentieth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force six months after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

3. Each of the Protocols annexed to this Convention shall enter into force six months after the date by which twenty States have notified their consent to be bound by it in accordance with paragraph 3 or 4 of Article 4 of this Convention.

4. For any State which notifies its consent to be bound by a Protocol annexed to this Convention after the date by which twenty States have notified their consent to be bound by it, the Protocol shall enter into force six months after the date on which that State has notified its consent so to be bound.

Article 6

Dissemination

The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate this Convention and those of its annexed Protocols by which they are bound as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction, so that those instruments may become known to their armed forces.

Article 7

Treaty relations upon entry into force of this Convention

1. When one of the parties to a conflict is not bound by an annexed Protocol, the parties bound by this Convention and that annexed Protocol shall remain bound by them in their mutual relations.

2. Any High Contracting Party shall be bound by this Convention and any Protocol annexed thereto which is in force for it, in any situation contemplated by Article 1, in relation to any State which is not a party to this Convention or bound by the relevant annexed Protocol, if the latter accepts and applies this Convention or the relevant Protocol, and so notifies the Depositary.

3. The Depositary shall immediately inform the High Contracting Parties concerned of any notification received under paragraph 2 of this Article.

4. This Convention, and the annexed Protocols by which a High Contracting Party is bound, shall apply with respect to an armed conflict against that High Contracting Party of the type referred to in Article 1, paragraph 4, of Additional Protocol I to the Geneva Conventions of 12 August 1949 for the Protection of War Victims:

(a) where the High Contracting Party is also a party to Additional Protocol I and an authority referred to in Article 96, paragraph 3, of that Protocol has undertaken to apply the Geneva Conventions and Additional Protocol I in accordance with Article 96, paragraph 3, of the said Protocol, and undertakes to apply this Convention and the relevant annexed Protocols in relation to that conflict; or

(b) where the High Contracting Party is not a party to Additional Protocol I and an authority of the type referred to in subparagraph (a) above accepts and applies the obligations of the Geneva Conventions and of this Convention and the relevant annexed Protocols in relation to that conflict. Such an acceptance and application shall have in relation to that conflict the following effects:

- (i) the Geneva Conventions and this Convention and its relevant annexed Protocols are brought into force for the parties to the conflict with immediate effect;
- (ii) the said authority assumes the same rights and obligations as those which have been assumed by a High Contracting Party to the Geneva Conventions, this Convention and its relevant annexed Protocols; and
- (iii) the Geneva Conventions, this Convention and its relevant annexed Protocols are equally binding upon all parties to the conflict.

The High Contracting Party and the authority may also agree to accept and apply the obligations of Additional Protocol I to the Geneva Conventions on a reciprocal basis.

Article 8

Review and amendments

1.(a) At any time after the entry into force of this Convention any High Contracting Party may propose amendments to this Convention or any annexed Protocol

by which it is bound. Any proposal for an amendment shall be communicated to the Depositary, who shall notify it to all the High Contracting Parties and shall seek their views on whether a conference should be convened to consider the proposal. If a majority, that shall not be less than eighteen of the High Contracting Parties so agree, he shall promptly convene a conference to which all High Contracting Parties shall be invited. States not parties to this Convention shall be invited to the conference as observers.

(b) Such a conference may agree upon amendments which shall be adopted and shall enter into force in the same manner as this Convention and the annexed Protocols, provided that amendments to this Convention may be adopted only by the High Contracting Parties and that amendments to a specific annexed Protocol may be adopted only by the High Contracting Parties which are bound by that Protocol.

2.(a) At any time after the entry into force of this Convention any High Contracting Party may propose additional protocols relating to other categories of conventional weapons not covered by the existing annexed protocols. Any such proposal for an additional protocol shall be communicated to the Depositary, who shall notify it to all the High Contracting Parties in accordance with subparagraph 1(a) of this Article. If a majority, that shall not be less than eighteen of the High Contracting Parties so agree, the Depositary shall promptly convene a conference to which all States shall be invited.

(b) Such a conference may agree, with the full participation of all States represented at the conference, upon additional protocols which shall be adopted in the same manner as this Convention, shall be annexed thereto and shall enter into force as provided in paragraphs 3 and 4 of Article 5 of this Convention.

3.(a) If, after a period of ten years following the entry into force of this Convention, no conference has been convened in accordance with subparagraph 1(a) or 2(a) of this Article, any High Contracting Party may request the Depositary to convene a conference to which all High Contracting Parties shall be invited to review the scope and operation of this Convention and the Protocols annexed thereto and to consider any proposal for amendments of this Convention or of the existing Protocols. States not parties to this Convention shall be invited as observers to the conference. The conference may agree upon amendments which shall be adopted and enter into force in accordance with subparagraph 1(b) above.

(b) At such conference consideration may also be given to any proposal for additional protocols relating to other categories of conventional weapons not

covered by the existing annexed Protocols. All States represented at the conference may participate fully in such consideration. Any additional protocols shall be adopted in the same manner as this Convention, shall be annexed thereto and shall enter into force as provided in paragraphs 3 and 4 of Article 5 of this Convention.

(c) Such a conference may consider whether provision should be made for the convening of a further conference at the request of any High Contracting Party if, after a similar period to that referred to in subparagraph 3(a) of this Article, no conference has been convened in accordance with subparagraph 1(a) or 2(a) of this Article.

Article 9

Denunciation

1. Any High Contracting Party may denounce this Convention or any of its annexed Protocols by so notifying the Depositary.
2. Any such denunciation shall only take effect one year after receipt by the Depositary of the notification of denunciation. If, however, on the expiry of that year the denouncing High Contracting Party is engaged in one of the situations referred to in Article 1, the Party shall continue to be bound by the obligations of this Convention and of the relevant annexed Protocols until the end of the armed conflict or occupation and, in any case, until the termination of operations connected with the final release, repatriation or re-establishment of the persons protected by the rules of international law applicable in armed conflict, and in the case of any annexed Protocol containing provisions concerning situations in which peace-keeping, observation or similar functions are performed by United Nations forces or missions in the area concerned, until the termination of those functions.
3. Any denunciation of this Convention shall be considered as also applying to all annexed Protocols by which the denouncing High Contracting Party is bound.
4. Any denunciation shall have effect only in respect of the denouncing High Contracting Party.
5. Any denunciation shall not affect the obligations already incurred, by reason of an armed conflict, under this Convention and its annexed Protocols by such denouncing High Contracting Party in respect of any act committed before this denunciation becomes effective.

inary effect of a
tection by X-rays

Article 10

Depositary

1. The Secretary-General of the United Nations shall be the Depositary of this Convention and of its annexed Protocols.

2. In addition to his usual functions, the Depositary shall inform all States of:

- (a) signatures affixed to this Convention under Article 3;
- (b) deposits of instruments of ratification, acceptance or approval of or accession to this Convention deposited under Article 4;
- (c) notifications of consent to be bound by annexed Protocols under Article 4;
- (d) the dates of entry into force of this Convention and of each of its annexed Protocols under Article 5; and
- (e) notifications of denunciation received under Article 9 and their effective date.

Article 11

Authentic texts

The original of this Convention with the annexed Protocols, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Depositary, who shall transmit certified true copies thereof to all States.

PROTOCOL ON NON-DETECTABLE FRAGMENTS

(PROTOCOL I)

It is prohibited to use any weapon the primary effect of which is to injure by fragments which in the human body escape detection by X-rays.

PROTOCOL ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF MINES,
BOOBY-TRAPS AND OTHER DEVICES

(PROTOCOL II)

Article 1

Material scope of application

This Protocol relates to the use on land of the mines, booby-traps and other devices defined herein, including mines laid to interdict beaches, watervay crossings or river crossings, but does not apply to the use of anti-ship mines at sea or in inland waterways.

Article 2

Definitions

For the purpose of this Protocol:

1. "Mine" means any munition placed under, on or near the ground or other surface area and designed to be detonated or exploded by the presence, proximity or contact of a person or vehicle, and "remotely delivered mine" means any mine so defined delivered by artillery, rocket, mortar or similar means or dropped from an aircraft.
2. "Booby-trap" means any device or material which is designed, constructed or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act.
3. "Other devices" means manually-emplaced munitions and devices designed to kill, injure or damage and which are actuated by remote control or automatically after a lapse of time.
4. "Military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.
5. "Civilian objects" are all objects which are not military objectives as defined in paragraph 4.

6. "Recording" means a physical, administrative and technical operation designed to obtain, for the purpose of registration in the official records, all available information facilitating the location of minefields, mines and booby-traps.

Article 3

General restrictions on the use of mines, booby-traps and other devices

1. This Article applies to:

- (a) mines;
- (b) booby-traps; and
- (c) other devices.

2. It is prohibited in all circumstances to direct weapons to which this Article applies, either in offence, defence or by way of reprisals, against the civilian population as such or against individual civilians.

3. The indiscriminate use of weapons to which this Article applies is prohibited. Indiscriminate use is any placement of such weapons:

- (a) which is not on, or directed against, a military objective; or
- (b) which employs a method or means of delivery which cannot be directed at a specific military objective; or
- (c) which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

4. All feasible precautions shall be taken to protect civilians from the effects of weapons to which this Article applies. Feasible precautions are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations.

Article 4

Restrictions on the use of mines other than remotely delivered
mines, booby-traps and other devices in populated areas

1. This Article applies to:

- (a) mines other than remotely delivered mines;
- (b) booby-traps; and
- (c) other devices.

2. It is prohibited to use weapons to which this Article applies in any city, town, village or other area containing a similar concentration of civilians in which combat between ground forces is not taking place or does not appear to be imminent, unless either:

(a) they are placed on or in the close vicinity of a military objective belonging to or under the control of an adverse party; or

(b) measures are taken to protect civilians from their effects, for example, the posting of warning signs, the posting of sentries, the issue of warnings or the provision of fences.

Article 5

Restrictions on the use of remotely delivered mines

1. The use of remotely delivered mines is prohibited unless such mines are only used within an area which is itself a military objective or which contains military objectives, and unless:

(a) their location can be accurately recorded in accordance with Article 7(1)(a);
or

(b) an effective neutralizing mechanism is used on each such mine, that is to say, a self-actuating mechanism which is designed to render a mine harmless or cause it to destroy itself when it is anticipated that the mine will no longer serve the military purpose for which it was placed in position, or a remotely-controlled mechanism which is designed to render harmless or destroy a mine when the mine no longer serves the military purpose for which it was placed in position.

2. Effective advance warning shall be given of any delivery or dropping of remotely delivered mines which may affect the civilian population, unless circumstances do not permit.

Article 6

Prohibition on the use of certain booby-traps

1. Without prejudice to the rules of international law applicable in armed conflict relating to treachery and perfidy, it is prohibited in all circumstances to use:

(a) any booby-trap in the form of an apparently harmless portable object which is specifically designed and constructed to contain explosive material and to detonate when it is disturbed or approached, or

- (b) booby-traps which are in any way attached to or associated with:
 - (i) internationally recognized protective emblems, signs or signals;
 - (ii) sick, wounded or dead persons;
 - (iii) burial or cremation sites or graves;
 - (iv) medical facilities, medical equipment, medical supplies or medical transportation;
 - (v) children's toys or other portable objects or products specially designed for the feeding, health, hygiene, clothing or education of children;
 - (vi) food or drink;
 - (vii) kitchen utensils or appliances except in military establishments, military locations or military supply depots;
 - (viii) objects clearly of a religious nature;
 - (ix) historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples;
 - (x) animals or their carcasses.

2. It is prohibited in all circumstances to use any booby-trap which is designed to cause superfluous injury or unnecessary suffering.

Article 7

Recording and publication of the location of minefields,
mines and booby-traps

1. The parties to a conflict shall record the location of:
 - (a) all pre-planned minefields laid by them; and
 - (b) all areas in which they have made large-scale and pre-planned use of booby-traps.
2. The parties shall endeavour to ensure the recording of the location of all other minefields, mines and booby-traps which they have laid or placed in position.
3. All such records shall be retained by the parties who shall:
 - (a) immediately after the cessation of active hostilities:
 - (i) take all necessary and appropriate measures, including the use of such records, to protect civilians from the effects of minefields, mines and booby-traps; and either
 - (ii) in cases where the forces of neither party are in the territory of the adverse party, make available to each other and to the Secretary-General of the United Nations all information in their possession concerning the location of minefields, mines and booby-traps in the territory of the adverse party; or
 - (iii) once complete withdrawal of the forces of the parties from the territory of the adverse party has taken place, make available to the adverse party and to the Secretary-General of the United Nations all information in their possession concerning the location of minefields, mines and booby-traps in the territory of the adverse party;
- (b) when a United Nations force or mission performs functions in any area, make available to the authority mentioned in Article 8 such information as is required by that Article;
- (c) whenever possible, by mutual agreement, provide for the release of information concerning the location of minefields, mines and booby-traps, particularly in agreements governing the cessation of hostilities.

Article 8

Protection of United Nations forces and missions from the
effects of minefields, mines and booby-traps

1. When a United Nations force or mission performs functions of peace-keeping, observation or similar functions in any area, each party to the conflict shall, if requested by the head of the United Nations force or mission in that area, as far as it is able:

- (a) remove or render harmless all mines or booby-traps in that area;
- (b) take such measures as may be necessary to protect the force or mission from the effects of minefields, mines and booby-traps while carrying out its duties; and
- (c) make available to the head of the United Nations force or mission in that area, all information in the party's possession concerning the location of minefields, mines and booby-traps in that area.

2. When a United Nations fact-finding mission performs functions in any area, any party to the conflict concerned shall provide protection to that mission except where, because of the size of such mission, it cannot adequately provide such protection. In that case it shall make available to the head of the mission the information in its possession concerning the location of minefields, mines and booby-traps in that area.

Article 9

International co-operation in the removal of minefields,
mines and booby-traps

After the cessation of active hostilities, the parties shall endeavour to reach agreement, both among themselves and, where appropriate, with other States and with international organizations, on the provision of information and technical and material assistance - including, in appropriate circumstances, joint operations - necessary to remove or otherwise render ineffective minefields, mines and booby-traps placed in position during the conflict.

Technical Annex to the Protocol on Prohibitions
or Restrictions on the Use of Mines, Booby-traps
and Other Devices (Protocol II)

Guidelines on Recording

Whenever an obligation for the recording of the location of minefields, mines and booby-traps arises under the Protocol, the following guidelines shall be taken into account.

1. With regard to pre-planned minefields and large-scale and pre-planned use of booby-traps:

(a) maps, diagrams or other records should be made in such a way as to indicate the extent of the minefield or booby-trapped area; and

(b) the location of the minefield or booby-trapped area should be specified by relation to the co-ordinates of a single reference point and by the estimated dimensions of the area containing mines and booby-traps in relation to that single reference point.

2. With regard to other minefields, mines and booby-traps laid or placed in position:

In so far as possible, the relevant information specified in paragraph 1 above should be recorded so as to enable the areas containing minefields, mines and booby-traps to be identified.

I hereby certify that the foregoing text is a true copy 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, concluded at Geneva on 10 October 1980, the original of which is deposited with the Secretary-General of the United Nations.

Je certifie que le texte qui précède est une copie conforme de la Convention sur l'interdiction ou la limitation de l'emploi de certaines armes classiques qui peuvent être considérées comme produisant des effets traumatiques excessifs ou comme frappant sans discrimination, conclue à Genève le 10 octobre 1980, dont l'original se trouve déposé auprès du Secrétaire général de l'Organisation des Nations Unies.

*For the Secretary-General:
The Legal Counsel*



*Pour le Secrétaire général :
Le Conseiller juridique*

United Nations, New York,
14 May 1981

Organisation des Nations Unies, New York,
le 14 mai 1981

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Lynn Davis et al. Subject: IWG on Provisional Application of Selected START Provisions. (1 page)	03/24/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #2 [6]

2016-0152-F

vz4555

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. list	[CIA Act] [partial] (1 page)	03/24/1994	P3/b(3)

COLLECTION:

Clinton Presidential Records
National Security Council
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~~SECRET~~

March 24, 1994

TO: SITUATION ROOM

PLEASE LDX THE ATTACHED ~~SECRET~~ DOCUMENT FOR ROBERT BELL TO THE FOLLOWING:

Lynn Davis
State/T
Room 7510
647-1049

Frank Wisner
OSD/ISP
Room 4E830
Pentagon
703-697-7200

John Keliher
Department of Energy
Room 7B222
Forrestal Building
586-0645

(b)(3)

[001b]

Michael Ryan
JCS
Room 2E868
Pentagon
703-695-4605

John Holum
ACDA
Room 5930
647-9610

Thanks

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS
Initials: VR Date: 11/16/2011
2011-0152 - F

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 24, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

~~ROBERT BELL~~ *Rab*

FROM:

PETER FEAVER *Pf*

SUBJECT: Defense Proposed Report Re: HR 3921 Posthumous
Commission for Johnson Chestnut Whittaker

Tab II is a proposed report, prepared by the Department of Defense, outlining DoD's views on HR 3921. The bill would authorize and request the President to issue a posthumous commission to Johnson Chestnut Whittaker, an African-American who was denied a commission in the 1880s due to racial discrimination. The Department of Defense supports the bill but suggests that if the bill were amended slightly the President could issue the commission under existing authority without requiring separate confirmation of the Senate.

Concurrence by:

[Signature]
Jeremy Rosner

RECOMMENDATION

That you sign and forward the memorandum at Tab I indicating NSC staff concurrence in the proposed report.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR JANET R. FORSGREN

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report Re: HR 3921, Posthumous
Commission for Johnson Chestnut Whittaker

The National Security Council staff concurs in the proposed report.

2163

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503**

March 21, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2312

TO: Legislative Liaison Officer -

NSC - William H. Itoh - (202)395-3723 - 249
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217

FROM: JANET R. FORSGREN (for) *Janet R. Forsgren*
Assistant Director for Legislative Reference

OMB CONTACT: Melissa COOK (395-3924)
Secretary's line (for simple responses): 395-7362

SUBJECT: DEFENSE Proposed Report RE: HR 3921,
Posthumous Commission for Johnson Chestnut
Whittaker

DEADLINE: C.O.B. March 30, 1994

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

**} Jim Fish
Wendell Waites
Joe Lackey
Bob Damus
Clarissa Cerda
Janet Forsgren
Delphine Motley**

LRM #I-2312

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Melissa COOK
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3924
Branch-wide Line (to reach secretary): (202) 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

**SUBJECT: DEFENSE Proposed Report RE: HR 3921,
Posthumous Commission for Johnson Chestnut
Whittaker**

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this
_____ response sheet

MAR 18 '94 16:34 FROM OSD-LRS

TO FORSGREN

PAGE.003



SECRETARY OF THE ARMY
WASHINGTON



Honorable Ronald V. Dellums
Chairman
Committee on Armed Services
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This responds to your request for the views of the Department of Defense on H.R. 3921, 103d Congress, a bill "To authorize and request the President to issue a posthumous commission appointing Johnson Chestnut Whittaker a second lieutenant in the Army." The Department of the Army has been assigned the responsibility for commenting on the bill.

The bill would urge the President to appoint Mr. Whittaker posthumously as a commissioned officer in the Regular Army as recompense for his unjust separation from the Corps of Cadets of the United States Military Academy and from the Army. The Department of the Army supports the bill, but offers the following comment.

An appointment as an officer in the Regular Army requires Senate confirmation. If the word "regular" is stricken from the bill, the President could then issue Mr. Whittaker a posthumous commission under existing authority without the need for separate confirmation by the Senate.

Thank you for the opportunity to comment on this bill.

Sincerely,

Togo D. West, Jr.

108D CONGRESS
2D SESSION

H. R. 3921

To authorize and request the President to issue a posthumous commission appointing Johnson Chestnut Whittaker a second lieutenant in the Army.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 1994

Mr. GOODLATTE introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To authorize and request the President to issue a posthumous commission appointing Johnson Chestnut Whittaker a second lieutenant in the Army.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REQUEST FOR POSTHUMOUS APPOINTMENT AS**

4 **A COMMISSIONED OFFICER IN THE ARMY.**

5 The President is authorized and requested to issue,
6 or have issued, a posthumous commission in the name of
7 Johnson Chestnut Whittaker of South Carolina in the
8 grade of second lieutenant in the regular Army, as rec-
9 ompense for the unjust separation in the early 1880's, in
10 circumstances suggesting racial prejudice, of Johnson

1 Chestnut Whittaker from the Corps of Cadets of the Unit-
2 ed States Military Academy and from the United States
3 Army.

4 **SEC. 2. PROHIBITION OF BENEFITS.**

5 Section 1523 of title 10, United States Code, shall
6 apply to a commission issued pursuant to section 1.

O

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002a. memo	For William Itoh from Peter Feaver. Subject: Significant Military Exercise INSPIRED SIREN 94-2. (1 page)	03/24/2199	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #2 [6]

2016-0152-F
vz4555

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR COLONEL ROBERT MCALEER
Executive Secretary
Department of Defense

SUBJECT: Significant Military Exercise INSPIRED SIREN 94-2

Significant military exercise INSPIRED SIREN 94-2, as amended per comments from the Department of State, is approved.

William H. Itoh
Executive Secretary

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002b. memo	For Executive Secretary, National Security Council. Subject: Significant Military Exercise - INSPIRED SIREN 94-2. (1 page)	03/18/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #2 [6]

2016-0152-F
vz4555

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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002c. cable	re: Significant Military Exercise Brief (SMEB) for Inspired Siren 94-2. (1 page)	02/23/1994	P1/b(1)
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COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #2 [6]

2016-0152-F
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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002d. letter	To Maxwell Alston from Robert F. Carty. (2 pages)	03/15/1994	P1/b(1)
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COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #2 [6]

2016-0152-F
vz4555

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RR. Document will be reviewed upon request.

THE WHITE HOUSE
WASHINGTON

March 24, 1994

MEMORANDUM FOR ANTHONY LAKE
WILLIAM H. ITOH

SUBJECT: Access to NSC Records

I understand that the status of the National Security Council (NSC) under the Freedom of Information Act (FOIA) and the Presidential Records Act will be the subject of further litigation in the case of Armstrong v. Executive Office of the President. I further understand our position is that the NSC is an entity within the Executive Office of the President that exists solely to advise and assist me in the discharge of my constitutionally based responsibilities over the national security affairs of the United States. If this legal position prevails, I understand that one consequence is that NSC records would not, as a matter of law, be subject to disclosure under the Freedom of Information Act.

Notwithstanding this legal conclusion, I strongly support the policy of past Administrations of permitting public access to certain NSC records, and of leaving certain NSC records to the incoming Administration in order to ensure a smooth transition on national security matters. Therefore, to provide for continued access to NSC records and their appropriate disposition at the end of my Administration, I direct you to take the following steps:

1. Establish procedures for continued access by the public to those NSC records previously transferred by one Administration to another for transition and continuity purposes.
2. Establish procedures for access by the public to appropriate NSC records of the current Administration.
3. Develop a plan to provide copies of appropriate NSC records to the next Administration in order to provide for smooth transition and continuity of essential foreign policy and national security matters.

William J. Clinton