DISARMAMENT COMMISSION
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Agenda item 8

NAVAL ARMAMENTS AND DISARMAMENT

A protocol on sea mines

Working paper submitted by Sweden

1. The 1907 Hague Convention Relative to the Laying of Automatic Submarine Contact Mines contains valuable concepts for security at sea and the protection of civilian maritime activities. The use of mines is not prohibited but is restricted through the provisions concerning neutralizing mechanisms and information regarding danger zones. However, the Convention has in various respects become outdated. The Convention does not, for example, accommodate later developments such as mines relying on magnetic, acoustic or pressure effects or a combination thereof.

2. In paragraph 304 (c) of the 1985 United Nations study The Naval Arms Race, it is noted that the Hague Convention VIII of 1907 is partly obsolete. At the same time the study stresses the fact that article 1 of the Convention, on neutralizing mechanisms, and article 3, on information regarding danger zones, constitute a solid ground for a new treaty to be built upon.

3. Sweden has prepared a draft protocol on the use of naval mines (see annex), elaborated on the basis of the above-mentioned concepts already incorporated in the Hague Convention VIII and the Protocol II on Land-mines, attached to the 1981 Convention on Certain Conventional Weapons. The draft also contains an article prohibiting the use of torpedoes which do not become harmless having travelled their range, which is an updated version of a corresponding rule in the Hague Convention.

4. Sweden is convinced that a modern protocol on the use of sea-mines will serve the purpose of strengthening the rules of naval warfare and protecting peaceful
shipping. Any agreement of this kind, which is adhered to by the major military Powers, will also have overall confidence-building effects.

Notes

1/ United Nations publication, Sales No. E.86.IX.3.
Annex

DRAFT PROTOCOL ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF NAVAL MINES

Article 1. Material scope of application

This Protocol relates to the use at sea and in internal waters of the mines defined herein but does not apply to mines used in land-warfare to interdict beaches, waterway crossings or river crossings.

Article 2. Definitions

For the purpose of this Protocol:

1. "Mine" means any munition, emplaced or emplaced, moving or drifting on the surface of the sea, submerged, on the sea-bed or in the subsoil thereof, and designed to be actuated by the presence of a ship, submarine, other vessel or person, or by remote control, and to be detonated or exploded by proximity, contact or remote control, either at its original position or after it has moved from that position.

2. "Torpedo" means any self-propelled munition, launched or fired from a ship, submarine, other vessel, aircraft or shore installation, designed to approach a ship, submarine, other vessel or facility, in the water by means of pre-set navigation, remote control or homing, and to be detonated or exploded by proximity, contact or remote control.

3. "Torpedo-launching missile" means a ship-to-surface, surface-to-surface or air-to-surface missile designed to launch a torpedo at the end of its trajectory in the air.

4. "Depth-charge" means any munition, launched or fired from a ship, aircraft or shore, designed to sink through the water and to be detonated or exploded after a pre-set time, at a pre-set depth or by the proximity or contact of a submarine or other target.

5. "At sea" means all waters outside the baselines of States determined in accordance with international law.

6. "Internal waters" means waters on the landward side of the baselines of coastal States.
Article 3. Relations with other international agreements

Cf. art. 2, 1981
Conventional Weapons Convention
Nothing in this Protocol shall be interpreted as detracting from other obligations imposed upon the High Contracting Parties by international humanitarian law applicable in armed conflict, or by the Treaty of 11 February 1971 on the Prohibition of the Emplacement of Nuclear Weapons and other weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Sub-soil Thereof.

Article 4. Restrictions on the use of mines

General rule
(Cf. Prot. II, 1981, art. 3:2)
1. It is prohibited in all circumstances to use mines either in offence, defence or by way of reprisals, specifically directed against vessels engaged in fishing, peaceful shipping, rescue operations or civilian ventures for scientific research.

Construction rule (Cf. Prot. II, 1981, art. 5:1:b)
2. It is prohibited to emplant or emplace mines, unless an effective neutralizing mechanism is used on each mine, that is to say, a self-actuating or remotely controlled 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 at the latest five years after such emplantment or emplacement.

Drifting mines
3. It is prohibited to use drifting mines, except in rivers, in which case they must be so constructed as to become harmless 24 hours at the most after their being laid.

Anchored mines
(Hague Convention VIII, 1907, art. 1:2)
4. It is prohibited to lay anchored mines which do not become harmless as soon as they have broken loose from their moorings.

Article 5. Restrictions on the use of torpedoes

Hague 1907, art. 1:3
It is prohibited to use torpedoes which do not become harmless when they have travelled their range.

Article 6. Precautionary measures

(Cf. Prot. II, 1981, art. 5:2)
1. Effective advance warning shall be given of any use of mines which may affect the civilian population or individual fishermen or other civilians, unless circumstances do not permit.

/...
Other mines (Prot. III, 1981, art. 1:5)

2. When mines are employed, all feasible precautions shall be taken for the safety of peaceful shipping and fishing. 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.

All contact mines (Hague 1907, art. 3)

3. The mine-laying Powers, including non-belligerent and neutral States, undertake to do their utmost to render automatic contact mines harmless within a limited time, and should such mines cease to be under surveillance, to notify the danger zones as soon as military exigencies permit.

Cf. Prot. II, 1981, art. 7

1. The parties to a conflict shall, whenever military exigencies permit, record all zones where they have made use of contact mines or influence mines.

2. All such records shall be retained by the parties who shall:

   (a) Immediately after the cessation of active hostilities take all necessary and appropriate measures, including the use of such records, to protect civilians from the effects of mines; and make available to each other and to the Secretary-General of the United Nations all information in their possession concerning the location of mines;

   (b) Whenever possible, by mutual agreement, provide for the release of information concerning the location of mines, particularly in agreements governing the cessation of hostilities.