

AD HOC WORKING GROUP ESTABLISHED WITH A VIEW TO REACHING AGREEMENT
ON A CONVENTION PROHIBITING THE DEVELOPMENT, PRODUCTION,
STOCKPILING AND USE OF RADIOLOGICAL WEAPONS

Report to the Committee on Disarmament

I. INTRODUCTION

1. The Final Document of the Tenth Special Session of the General Assembly in its section III entitled "Programme of Action" contains the following paragraph:

"76. A convention should be concluded prohibiting the development, production, stockpiling and use of radiological weapons".

2. At its 1979 session the Committee on Disarmament noted with satisfaction the submission by the USSR and the United States of America of an agreed joint proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons (CD/31 and CD/32). Following a preliminary discussion, the Committee concluded that it would continue consideration of the agreed joint proposal as soon as possible at its next annual session.

3. At its thirty-fourth session the General Assembly of the United Nations adopted resolution 34/87 A entitled "Conclusion of an international convention prohibiting the development, production, stockpiling and use of radiological weapons", which operative paragraphs 1 and 2 read as follows:

"1. Welcomes the report of the Committee on Disarmament with regard to radiological weapons and, particularly, its stated intention to continue consideration of proposals for a convention banning these weapons at its next session;

2. Requests the Committee on Disarmament to proceed as soon as possible to achieve agreement, through negotiation, on the text of such a convention and to report to the General Assembly on the results achieved for consideration by the Assembly at its thirty-fifth session."

4. In considering item 5 of its 1980 agenda, entitled "New types of weapons of mass destruction and new systems of such weapons; radiological weapons", the Committee on Disarmament at its 69th plenary meeting held on 17 March 1980 adopted the following decision:

"The Committee on Disarmament decides to establish for the duration of its 1980 session an ad hoc working group of the Committee with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons.

* Reissued for technical reasons.

The ad hoc working group will report to the Committee on the progress of its work at any appropriate time and in any case before the conclusion of its 1980 session.

5. At its 30th meeting on 22 April the Committee appointed Ambassador Dr. Imre Konivics of Hungary as Chairman of the Ad Hoc Working Group. Mr. B. Konstantinov, of the United Nations Centre for Disarmament, was appointed as Secretary of the Working Group.

II. SUMMARY OF THE PROCEEDINGS

6. In accordance with the agreement reached in the Committee the Ad Hoc Working Group held 16 meetings between 24 April and 1 August 1980.

7. Delegates of all member States of the Committee on Disarmament participated in the work of the Working Group. Experts from Czechoslovakia, Egypt, France, Romania, Indonesia, Sweden, USSR, United States and Yugoslavia provided additional information and gave explanations.

8. At its first meeting the Working Group considered organizational matters and agreed that it would start its substantive work on Monday, 16 June, providing, at the beginning, possibility for a short general exchange of views on radiological weapons. It was also agreed that each delegation would decide at which point the assistance of experts would be needed.

9. At its second meeting the Working Group agreed that the proceedings should encompass three phases:

- (a) to identify the main elements of the future treaty, bearing in mind the documents submitted so far and the statements made;
- (b) to negotiate on each of identified elements;
- (c) to draft the text of the convention.

10. At the request of the Working Group the Chairman submitted and the Group adopted at its third meeting a working paper containing the "Main elements in the negotiations of a treaty on the prohibition of radiological weapons", namely:

- 1. Preamble
- 2. Scope of the prohibition
- 3. Definition of radiological weapons
- 4. Activities and obligations
- 5. Relationship with other disarmament measures and agreements
- 6. Peaceful uses
- 7. Compliance and verification

8. Other provisions
 9. Amendments
 10. Duration and withdrawal
 11. Review conference
 12. Adherence, entry into force, depositary
 13. Annexes
11. At the same meeting the Group adopted a proposal by the Chairman concerning the order which could serve as a guide in discussing the main elements at meetings of the Working Group, namely:

- Definition of radiological weapons
- Scope of the prohibition
- Activities and obligations
- Peaceful uses, Relationship to other treaties
- Compliance and verification
- The remaining "main elements" (other provisions, amendments, duration and withdrawal, review conference, adherence, entry into force, depositary)
- Preamble

It was further agreed that during each meeting the Working Group would tackle all proposals and considerations of States members of the Committee on Disarmament which were submitted prior to the day of the meeting or might be submitted and which refer to the main element to be discussed.

12. In the conduct of its work the Working Group had before it the following documents and working papers:

- (1) CD/31 "Letter dated 9 July 1979 addressed to the Chairman of the Committee on Disarmament from the Representative of the Union of Soviet Socialist Republics transmitting a document entitled "Agreed joint USSR-United States proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of Radiological Weapons."
- (2) CD/32 - Letter dated 9 July 1979 addressed to the Chairman of the Committee on Disarmament from the Representative of the United States of America transmitting a document entitled "Agreed joint United States-USSR proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons".

- (3) CD/40 - "Working paper on the draft preambular part of the Treaty on the Prohibition of the development, manufacture, stockpiling and use of radiological weapons", dated 23 July 1979, submitted by the delegation of Hungary;
- (4) CD/42 - "Working paper on draft paragraph XI, subparagraph 3, and paragraph XII, subparagraph 3 of the Treaty on the Prohibition of the Development, Manufacture, Stockpiling and Use of Radiological Weapons", dated 25 July 1979, submitted by the delegation of the German Democratic Republic.
- (5) CD/RW/WP.3 - Canada: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- (6) CD/RW/WP.4 - Federal Republic of Germany: Proposal for a new Article V.
- (7) CD/RW/WP.5 - Federal Republic of Germany: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- (8) CD/RW/WP.6 - Sweden: Proposals for Articles I, II and III, of a Treaty prohibiting radiological warfare including the development, production, stockpiling and use of radiological weapons.
- (9) CD/RW/WP.7 - Italy: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons (Doc. CD/31 and CD/32).
- (10) CD/RW/WP.8 - France: Proposed amendments to the agreed joint USSR-USA proposal on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- (11) CD/RW/WP.9 - Pakistan: Proposals for a revised Article V and a new article after Article V.
- (12) CD/RW/WP.10 - Yugoslavia: Proposal for an article of the Treaty related to the definition of radiological weapons.
- (13) CD/RW/WP.11 - Argentina: Observations on a Treaty prohibiting radiological weapons.
- (14) CD/RW/WP.12 - Venezuela: Proposals for a title and for substitution of the Articles I, II and III of the "agreed joint USSR-USA proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons".
- (15) CD/RW/WP.14 - Sweden: Proposal for a study on IAEA safeguards.

In addition to these documents the Working Group took into account the views expressed by many delegations on the question of the prohibition of radiological weapons in the Committee, as well as during the last session of the General Assembly. Many delegations have also commented upon the documents referred to previously, making suggestions and also asking questions in connexion with them.

At the request of the Group the Secretariat compiled in twelve Conference Room Papers and their addenda all proposals and suggestions mentioned above, as well as additional proposals and suggestions made by the delegations of Australia, Belgium, Bulgaria, Egypt, the Federal Republic of Germany, India, Mexico, Morocco, the Netherlands, Romania and Pakistan.

A list of documents, working papers and conference room papers was prepared by the Secretariat (CD/RW/WP/13/Rev.1).

13. At the request of the Working Group the Secretariat prepared a "Compilation of relevant documents on radiological weapons covering the period 1979-1980" (CD/104).

14. Also at the request of the Working Group the Secretariat prepared a tabulation of the texts of all proposals concerning the provisions of a treaty on radiological weapons (CD/RW/WP.15)..

III. SUMMARY OF THE DISCUSSION

15. In carrying out its mandate, the ad hoc working group held extensive discussions on the main elements of a treaty prohibiting radiological weapons. The discussion revealed that, while all delegations were ready to negotiate a treaty on radiological weapons, different concepts existed with regard to approach, the priority, the role and scope of the treaty, the definition of radiological weapons and the procedures of verifying compliance, as well as in some other areas.

16. With respect to the approach, the role and the scope of the treaty, the view was expressed on the one hand that its importance consisted of preventing the emergence of a particular type of weapon of mass destruction not yet in existence but which could be developed and produced. Consequently, the treaty should not be burdened with additional problems. Furthermore, the treaty would represent another contribution to the limitation of the qualitative arms race and progress towards the objective of using scientific and technological achievements solely for peaceful purposes. The joint USSR-United States proposal was regarded as a

suitable basis for reaching agreement on a treaty prohibiting the development, production, stockpiling and use of radiological weapons. On the other hand, in assessing the joint proposal, the view was expressed that the text was too restrictive and it should be broadened so as to include the prohibition of all kinds of weapons that used radiation. In this respect, it was stressed that any treaty prohibiting the use of radiological weapons should contain explicit provisions concerning the urgent priority of nuclear disarmament.

- The view was held that particle beam weapons should also be covered by a ban on radiological weapons. However, others pointed out that particle beam weapons are of a different nature and could not be included within the scope of the proposed convention.

- The question of introducing the notion of radiological warfare was raised. The view was expressed that the term radiological warfare meant dissemination of radioactive material, other than through the explosion of a nuclear explosive device, in order to cause destruction, damage or injury by means of the radiation produced by the decay of such material. In this connexion the view was expressed that the introduction of such a notion would lead to confusion in the field of international law related to armed conflicts, and that the joint USSR-United States proposal was aimed at a preventive prohibition of radiological weapons as well as the prohibition of radiological warfare, i.e. military actions with the use of such weapons.

- The view was expressed that the treaty should explicitly prohibit deliberate attacks on nuclear reactors or any other nuclear fuel facilities. On the other hand, the view was expressed that a similar prohibition was already provided for in Article 56 of the I Additional Protocol of 1977 to the Geneva Conventions of 1949, on the protection of victims of international armed conflicts.

- It was stated that, as radiological weapons did not yet exist, and that since it did not seem foreseeable that they could exist as a specific type of weapon, the work of the Committee on Disarmament should be oriented towards the conclusion of a convention on the prohibition of the use of radioactive material for hostile purposes. This opinion was contested, and the view was expressed that such an approach would limit the scope of a future treaty and that the joint proposal was more comprehensive.

- The view was expressed that more explicit wording should be used with respect to the prohibition of radiological weapons in wartime, for defence purposes, as well as to the use of radioactive barriers and permissible levels of radioactivity

17. With respect to the definition, the view was expressed that the joint proposal was insufficient. The view was expressed that the definition of radiological weapons should not be so drafted as to imply that the use of nuclear weapons would have a legal justification that certain delegations did not accept. The definition of radiological weapons should, therefore, be in terms of the specific attributes of such potential weapons and not in terms of the exclusion of nuclear explosive devices. On the other hand, the view was expressed that the definition of radiological weapons contained in the joint proposal had a sound scientific basis. At the same time the view was expressed that it would be useful to continue the search for a formulation that would define radiological weapons in strictly positive terms, without resorting to exclusion clauses.

18. Questions were raised regarding the manner in which the fulfilment of the obligations contained in the joint USSR-United States elements not to divert radioactive material for use in radiological warfare would be monitored, especially with regard to radioactive material in nuclear facilities outside international safeguards. It was proposed in this context that an overview study of the possibilities of establishing and administering international safeguards should be performed by the Secretariat. Others expressed their disagreement with this proposal.

19. It was generally accepted that the provisions of the treaty should not hinder the use of radiation from radioactive decay for peaceful purposes. Views were expressed concerning the need for more explicit provisions for the right of the parties to exchange information as well as to develop and acquire nuclear technology for peaceful purposes.

20. In the course of consideration of the procedures of verifying compliance, the view was expressed that the related provisions of the joint proposal corresponded to the subject and scope of prohibition and met the requirements of this particular treaty. Some held the view that the procedure of lodging complaints envisaged in the joint USSR-United States proposal could be regarded as a satisfactory one. On the other hand, reservations were made with regard to the procedure of verifying compliance as proposed, in particular with respect to the role of the Security Council of the United Nations, as well as the proposed mandate for the Consultative Committee of Experts. The view was also expressed that greater authority, including with respect to on-site inspection, should be granted to the Consultative Committee of Experts as an independent body. The view was also expressed that the ultimate authority in the matter of compliance should be vested not in the Security Council, but in the United Nations General Assembly or in a Governing Board consisting of all the States Parties to the Treaty.

21. The working group also briefly considered other elements of a treaty, such as the preamble and the final clauses.

IV. CONCLUSION

22. There was wide recognition of the need to reach agreement on the text of a treaty prohibiting radiological weapons. However, various differences of approach have yet to be resolved.

23. In the light of the progress made, the Ad Hoc Working Group recommends that the Committee on Disarmament set up at the beginning of its 1981 session a further Ad Hoc Working Group under an appropriate mandate to be determined at that time, to continue negotiations on the elaboration of a treaty prohibiting radiological weapons.