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DEFINITION THREATENS TO CREATE LOOPHOLE IN LAND MINE BAN

by Andreas Zumach

Geneva. **Western governments are attempting to exclude multi-functional land mines, munitions and sub-munitions from international efforts to ban anti-personnel land mines. "Hybrid mines" have both anti-personnel and anti-tank characteristics, and in many cases these weapons are being developed by industry or are already stored in national arsenals. A loophole which exempted these mines from the proposed ban would seriously weaken any agreement reached at the Review Conference on Certain Conventional Weapons (CCW)¹ which resumed on 22 April in Geneva.**

The potential loophole resides in the definition of anti-personnel mines contained in the most recent draft text for a revised mine protocol, put forward by the President of the Geneva Review Conference, Ambassador Johan Molander of Sweden. The text reads: "anti-personnel mine means a mine primarily designed to be exploded by the presence, proximity or contact of a person". The word 'primarily' was only recently added at the insistence of Germany, Britain, the US and other

¹ The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons that May Be Deemed to be Excessively Injurious or to have Indiscriminate Effects is also referred to as the Inhumane Weapons Convention, or the Convention on Conventional Weapons. The first review of this Convention was held in September - October 1995. Agreement was not reached on text for the second protocol, which deals with land mines. A further review session was held from 15-19 January 1996, and another is currently under way in Geneva, due to run from 22 April - 3 May.

Western states.

In a statement to the Review Conference on 22 April, Cornelio Sommaruga, President of the International Committee of the Red Cross, said that the use of the phrase 'primarily designed' as opposed to 'designed' "would introduce a dangerous ambiguity into the heart of the proposed regime . . . Introduction of ambiguity in this crucial definition could over time weaken the very protections against anti-personnel mines which this Conference is mandated to strengthen".

A British official said the UK supports the use of 'primarily' as it makes it absolutely clear that anti-personnel land mines are the problem and they, and not other sorts of mines, should be the focus of the Review Conference. The official pointed out that this is the view of many of the Western states.

Mr. Sommaruga stressed that mines with both anti-personnel and anti-tank characteristics are now available and are likely to become cheaper and more widely used in the future. Some hybrid mines have an anti-tank warhead, but are surrounded by a frangible case designed to attack personnel. Others contain anti-armour warheads, but can also be exploded if moved or touched by persons. Hybrid mines would escape both the rules of the UN Convention and national export controls if the draft definition is adopted in its current form. They

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could be claimed to be “primarily designed” against tanks or armoured vehicles or simply defined as “munitions”. Land mine experts at the ICRC commented that “this issue is of overriding importance as progress made so far, both with national export moratoria and legal restrictions, as well as any future prohibition of anti-personnel mines, could over time be frustrated by an ambiguous definition”.

Among existing kinds of hybrid mines, munitions and sub-munitions which would fall through such a loophole the ICRC lists:

- remotely-delivered anti-tank mines with anti-lift or anti-handling devices — designed to work against people;
- anti-tank mines with a low-pressure trigger or adapted to low pressure — i.e. they could be triggered by people;
- runway denial sub-munitions which are claimed to be anti-vehicle but clearly have anti-personnel fragmentation casing — a hybrid mine;
- directional fragmentation mines (Claymore type) with tripwire and / or command detonation. Including a tripwire firing system turns an easily placed, removable and detectable munition into an anti-personnel mine.

Recent developments in Germany, a major producer of advanced technology land mines and a State Party to the UN Convention on Conventional Weapons, confirm the need for concern. One week before the resumption of the Review Conference in Geneva, Germany announced that it would destroy all its existing anti-personnel mines. Analysis of this initiative, and of the German land mine stockpile which is to be retained, shows the following:

- more than 90% of all German anti-tank mines are fitted with built-in anti-handling or anti-lift devices;
- mines that do not have these devices can be emplaced together with separate anti-lift devices;
- Air Force runway denial sub-munitions affect people if exploded;
- the ban does not include the Army’s 33,000 Claymore

type DM-51 mines.

In addition, confidential German Government documents show that in late 1995 the German Parliament approved an MoD contract initially worth over DM62 million with Rheinmetall, a leading defence manufacturer, to design three versions of a new “area denial mine” (Flaechenverteidigungsmine), effective against tanks, tracked and wheeled armoured vehicles, and mine-clearance vehicles. A total of DM302 million will be spend on full-scale R&D for these mines, if approved in 1998/99. The different versions of the mine will be emplaceable by hand, scatterable, and remotely deliverable by multiple-launched rocket systems. Known design specifications show that the mine will contain features securing it against clearance by hand. Although most German mines are labelled anti-tank mines many of them show some of the hybrid characteristics described by the ICRC experts. A German Ministry of Defence official denied that this procurement move contradicts the destruction announcement.

The declared goal of the 52 States Parties to the CCW is to strengthen the Convention’s mine protocol by agreeing restrictions on the use of anti-personnel mines that cannot self-destruct, or that do not have any metal parts by which they can be detected. Despite this rather modest goal, the last two rounds of negotiations in January this year and in October 1995 made no significant progress.

On 26 January 1996 President Clinton signed into law a one-year moratorium on the use of land mines by US forces “except along international borders or in demilitarized zones”. The ban will come into effect in three years’ time. A draft inter-agency proposal circulating in the US recommends a ban on all land-mine use by US forces by 2010. Central to the proposal are exceptions allowing for the continued deployment of land mines in the Korean peninsula, the Persian Gulf and in combat search-and-rescue operations. The proposal has met with strong criticism from congressional and NGO advocates of a more immediate and comprehensive land mine ban. Support for a total land mine ban was also given in an open letter to President Clinton signed by over fifteen prominent military leaders including General Norman

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Schwartzkopf.

On 23 April the UK announced an extension of its export moratorium to include all kinds of anti-personnel mines to all destinations. The UK also announced that it would destroy half of its current stockpile of non-self-destructing mines. Although the announcement was widely interpreted to say that the destroyed mines will be replaced with self-destructing types, the British official denied this was so. He admitted some ambiguity in the text of the announcement, and clarified the UK position, saying that there was no intention to replace the destroyed mines, but that if any of the remaining half of the stockpile should need replacement it would be done with self-destructing mines. He stressed that no decision to procure replacement mines had been taken. The full text of the announcement outlining the UK's new position is reproduced below. *BASIC*

Offried Nassauer, of the Berlin Information-centre for Transatlantic Security contributed the technical analysis to this report.

UK POLICY STATEMENT ON LAND MINES, 22 APRIL 1996

On Monday 22 April 1996, in answer to a parliamentary question, David Davis, Minister of State at the Foreign and Commonwealth Office, announced the UK's revised policy on land mines.

Question

Mr Wigley: To ask the Secretary of State for Defence what progress is being made in the international discussions aimed at outlawing the use of land mines.

Answer

Mr Davis: Pursuant to the answer from my Honourable Friend (col 579, 17 January 1996), in order to make greater progress in achieving international agreement on effective measures to reduce the dangers to civilians from land mines, we have taken a series of national decisions following a review of our policy, as follows:-

- The UK will work actively towards a total, world-wide ban on anti-personnel mines. Should such a ban be agreed, we would give up our anti-personnel land mine capability, and would destroy our stocks accordingly.
- All our current anti-personnel mines are non-self-destructing. We intend to destroy almost half our current stockpile as soon as practicable. Until a world-wide ban on all anti-personnel mines is agreed, we shall also pursue current procurement plans to replace our existing mines with self-destructing ones.
- We shall also pursue, as an interim step, early international agreement on the elimination of all non-self-destructing anti-personnel mines, which pose the greatest danger to civilians.
- The UK's armed forces do not currently use anti-personnel mines operationally, anywhere in the world. Nor will they use our current stocks of non-self-destructing anti-personnel mines in future operations unless, in exceptional circumstances, Ministers are satisfied that their use is essential to ensure that British troops are properly protected and there are no alternative ways of achieving that end.
- In such exceptional circumstances, we would use non-self-destructing anti-personnel mines only in marked, fenced or monitored areas; would clear them as soon as feasible; and any use would be strictly in accordance with the laws of armed conflict, including the strengthened Protocol II to the UN Weaponry Convention which we hope will be agreed shortly.
- We shall also, as a matter of priority, pursue the development of alternatives to anti-personnel mines. Should viable alternatives emerge -- none has yet -- we would cease to use all anti-personnel mines, of any type, and would destroy all our stocks.
- In addition, we shall with immediate effect extend the scope of our export moratorium, to prohibit the export of all types of anti-personnel mines to all destinations.

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