

set out in Article I, which limits the Convention's ambit to environmental effects that are "widespread, long-lasting or severe"...[T]hese terms remain ambiguous at best...

[T]here are also more fundamental questions such as whether *any* level of damage caused by the hostile use of environmental modification techniques should be tolerated. Another question relates to the scope of the protection afforded by the Convention. It currently applies only with respect to States Parties. Given the inherent difficulty in controlling such environmental effects, should this limitation be deleted? Finally, questions arise as to the degree of intent necessary to be found in breach of the Convention...

Canada joins others in appealing to all states to accede to the ENMOD Convention, as well as to all other relevant international agreements that provide protection for the environment in times of armed conflict, particularly:

- the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (The Fourth Geneva Convention);
- the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (the First Protocol); and
- the 1980 Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and Annexed Protocols.

The simple truth is, however, that all such appeals will fail unless we address the interpretational problems forthwith.

There have been a number of proposals on how to do this. It has been suggested that the Final Declaration seek to express in as clear language as possible the understanding of all participating States Parties on certain key elements of the Convention's scope. I would draw particular attention to the following affirmations:

- actions like the massive release of oil into the Gulf as well as the deliberate setting on fire of oil wells by Iraq during the Gulf War fall within the ambit of Articles I and II of the Convention;
- the Understandings in relation to Articles I and II are confirmed as is the interpretative statement of the US in relation to herbicides; and
- the Convention covers the hostile use

of environmental modification techniques of *whatever level* of technical sophistication — or lack thereof.

A Final Declaration incorporating these understandings is an immediate step that we can take to make ENMOD more relevant to today's security concerns. But it is clearly not a sufficient step. We must...start a process that could lead to legally-binding improvements in the Convention's effectiveness. At the very least, we need to thoroughly canvass what measures might be taken to that end. It is for this reason that Canada strongly supports the creation of a Consultative Committee of Experts, pursuant to Article V of the Convention and the Annex thereto, with a mandate "to examine the provisions of the Convention, with a view to determining the effectiveness of their application in relation to its objectives, and to identifying areas for improvement."

In keeping with the urgency of the task, it is our proposal that the Terms of Reference of the Consultative Committee include a provision for recommendations to be presented to the States Parties at a consultative meeting no later than six months after the end of the Second Review Conference...

Beyond the legal issues of the Convention's scope and applicability, however, lies the still relatively unexplored area of verification procedures to monitor compliance with the Convention. In April of this year, Canada convened a workshop, entitled, "Verifying Obligations Respecting Arms Control and the Environment: A Post-Gulf War Assessment"... I am pleased to submit to the Conference the proceedings of this extremely informative workshop...

In addition, I would draw to the Conference's attention a paper prepared by Canada's Verification Research Unit that seeks to provide a comprehensive overview of the capabilities of space-based and airborne sensors as a significant means of verifying compliance with the ENMOD Convention. It is the conclusion of this paper that the science of overhead remote sensing — a science that has progressed to the point of admissibility as evidence in courts of law — could play a valuable role in the verification of non-compliance with respect to the ENMOD Convention.

However, given that our point of departure is a convention — the scope of which is unclear and with enforcement provi-

sions that are, as yet, limited to a "complaint and consult" mechanism — it seems unlikely that substantive progress on verification procedures to monitor compliance with the Convention can be agreed upon in the near term. In the meantime, we need not settle for inaction. If we follow the example of the Biological and Toxin Weapons Convention (BTWC), a proven pragmatic course could be the implementation of a series of confidence-building measures (CBMs) that enhance the short-term effectiveness of the Convention, while laying the groundwork for more substantive progress in the future.

Recently, Canada commissioned a study to examine — in light of our experience with the BTWC — what CBMs might be applicable to ENMOD. One example, increasing military awareness of the provisions of the ENMOD Convention and the obligations of States Parties, would involve a minor financial outlay and could be implemented immediately. Other examples of CBMs directed at promoting greater transparency with respect to activities of relevance to the Convention include the declaration of past environmental modification research, development or operational programs, and advance notification of such activities in future. Unilateral CBMs would demonstrate a State Party's commitment to compliance and would serve to encourage others to follow suit. The next step would entail increasing contacts among States Parties, through the exchange of data and the promotion of ties among scientists conducting environmental modification research. As the barrier of mistrust erodes, we could then move from informational CBMs to consideration of more substantive verification measures.

Canada therefore proposes that the Consultative Committee of Experts also be mandated "to consider ways of enhancing the process of consultation and cooperation amongst States Parties to the Convention, including the use of confidence-building measures."

Final Statement

Our work over the past week, culminating in the text of the Final Declaration, has demonstrated that all is not well with the ENMOD Convention, due in large measure to significant interpretational problems in respect of the treaty's scope.

In Canada's view, it is self-evident that