

Clearly the time is most opportune for assessing the relevance of a multilateral instrument that was borne of the Cold War and then largely ignored. It existed without much notice over the years, mainly because the conduct it sought to preclude, such as man-made earthquakes, seemed esoteric and beyond practical application in the foreseeable future.

ENMOD emerged from obscurity in 1991 in the wake of the Gulf War and the scenes of billowing clouds of smoke as hundreds of Kuwaiti oil wells were deliberately set ablaze, and the equally horrifying pictures of slick, black waves of oil slopping onto the shore along with the bodies of dying cormorants and gulls. These images brought to centre stage what had hitherto been seen as a peripheral agreement on an obscure topic. But the glare of centre stage immediately exposed the weaknesses of the Convention. Did the ENMOD Convention even apply? The prevailing sentiment at the time was — and I believe remains so — that, if ENMOD did not prohibit such deliberate acts of environmental aggression as were perpetrated by Saddam Hussein during the Gulf War, then clearly it should. This is certainly the Canadian view...

Concern over the inability of ENMOD to adequately address environmental warfare centres on two interrelated issues — first, the limited adherence to the Convention and second, the significant interpretational problems in respect of its scope.

Since there are only 55 States Parties to the Convention, ENMOD lacks the degree of broad international support that is essential for an effective multilateral treaty. In the case of Iraq, though a signatory, it is not a party to the Convention. I hasten to add, however, that as a signatory Iraq was, at a minimum, under an obligation to refrain from acts that defeat the very object and purpose of the Convention.

Clearly, the perceived lack of relevance of ENMOD to the real security needs of most states is the reason for the low level of adherence. This brings us to the second problem in relation to ENMOD — what exactly does it prohibit?

The answer is not clear because there are interpretational difficulties associated with key elements of the Convention. Most problematic is the lack of agreement on what constitutes a “deliberate manipulation of a natural process” (Article II). The second problem relates to what has been called the “threshold of seriousness”

Workshop Looks at ENMOD Verification

“Verifying Obligations Respecting Arms Control and the Environment: A Post-Gulf War Assessment” was the topic of a workshop held in Saskatoon from April 13 to 16. Sixteen specialists drawn from the legal, technical, scientific and diplomatic sectors reviewed existing provisions for verifying compliance with the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Techniques (ENMOD), with a view to identifying possible improvements.

Participants discussed such issues as:

- whether or not the ENMOD Convention was breached by Iraq’s deliberate release of oil into the Persian Gulf and the ignition of oil well fires in Kuwait during the 1991 Gulf War;
- how to collect evidence in terms of verification of non-compliance, and what form that evidence might take; and
- how the results of using a variety of monitoring techniques could improve the effectiveness, including cost-effectiveness, of the verification process with respect to ENMOD.

Participants concluded that, in general terms, there is a need for clearer definition of terms such as “environmental modification techniques” (ENMOD Article II) and for development of more effective verification provisions (ENMOD Article V). On this last, they suggested following the precedent set by the Biological and Toxin Weapons Convention (BTWC), where States Parties agreed to first develop confidence-building measures that could eventually form the basis for a more formal compliance mechanism. Participants noted a number of illustrative events for which it might be possible to demonstrate a verification process, including forest fires, oil fires, misuse of herbicides, water diversion, electromagnetic pulses and introduction of new species.

The significance of the use of oil as a weapon was less clear. While participants felt that Iraq was unlikely to be found in technical or legal breach of ENMOD, they argued that Iraq was in moral contravention of the Convention.

The workshop, which was sponsored by EAITC’s Verification Research Program and organized by the Toxicology Research Centre of the University of Saskatchewan, was helpful in making final preparations for Canada’s participation in the ENMOD Review Conference held in September.



Participants at the ENMOD verification workshop in Saskatoon.