

Prohibition of the use of herbicides as a method of warfare and its verification

6. The Open-ended Consultations discussed the problem concerning the prohibition of the use of herbicides as a method of warfare and had considered the formulation of such a prohibition contained in the annex of document CD/539 and the informal proposal of the Delegation of Sweden submitted in January 1985.
7. In the course of the discussions, the Open-ended Consultations also considered the informal proposals on the prohibition of the use of herbicides submitted by the delegations of China, Iran, Pakistan, Sri Lanka and USSR, as well as the informal working papers submitted by the delegation of the Netherlands and by the delegation of Sweden on 15 July 1985 and the working paper submitted by the delegation of Pakistan in document CD/CW/WP.118 dated 22 July 1985.
8. There is a general understanding that the use of herbicides as a method of warfare should be prohibited; obviously such a prohibition should not preclude any other use of herbicides. It is also generally understood that herbicides are not to be considered as chemical weapons.
9. Several delegations were of the view that such a prohibition should be provided in the convention banning chemical weapons, while several other delegations took the view that it could be incorporated in a separate legal instrument such as a protocol to be attached to the convention. Some delegations who considered the possibility of a separate instrument dealing specifically with the prohibition of the use of herbicides attached to the convention were of the opinion that the convention must expressly provide that the separate instrument constitutes an integral part of the convention. Suggestion was also made that the separate instrument would not be attached to the convention; there could be provisions in both instruments providing for their simultaneous signature and ratification.
10. Delegations were generally of the view that a provision banning the use of herbicides as a method of warfare should be complemented with a clear understanding that herbicides mean chemical substances which, due to their purpose and direct effects, interfere with life processes of plants.
11. Delegations felt that future provisions prohibiting the use of herbicides as a method of warfare should not be interpreted as in any way impairing the applicable rules of international law pertaining to the use of herbicides.
12. In this connection, certain delegations were of the view that the existing legal instruments relating to the use of herbicides should be examined to determine their adequacy in prohibiting the use of herbicides. Several other delegations took the view that those existing legal instruments do not adequately deal with the use of herbicides.
13. A few delegations referred to another important aspect of the problem, namely the question of verification of the prohibition of the use of herbicides. However, the question was not discussed for lack of time and needs to be fully addressed at the next session.