



ICRC

ADVISORY SERVICE

ON INTERNATIONAL HUMANITARIAN LAW

1980 Convention on Certain Conventional Weapons (CCW)

The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects applies two general customary rules of international humanitarian law to specific weapons. These customary rules are (1) the prohibition on the use of weapons that are indiscriminate and (2) the prohibition on the use of weapons of a nature to cause unnecessary suffering or superfluous injury. The Convention is comprised of a framework instrument and five individual protocols that regulate specific categories of weapons. Although it contains detailed rules for specific weapons that raise humanitarian concerns, the Convention does not lessen the obligation of States to refrain from using weapons not covered by the Convention, but which would nonetheless violate customary rules of international humanitarian law.

The Convention

The Convention seeks to protect civilians from the effects of weapons used in an armed conflict and to protect combatants from suffering in excess of that which is necessary to achieve a legitimate military objective.

One of the Convention's important features is that it can be expanded in response to the development of new weapons or changes in the conduct of warfare. When it was concluded in 1980 the Convention contained three protocols (Protocols I–III). States Parties subsequently adopted new protocols in 1995 (Protocol IV on Blinding Laser Weapons) and in 2003 (Protocol V on Explosive Remnants of War).

The Convention's scope of application has also been broadened so that it applies to all types of armed conflicts. When adopted in 1980, the Convention Protocols I–III applied only to international armed conflicts. However, in 1996, at the First Review Conference of States Parties, Protocol II (on Mines, Booby Traps and Other Devices) was amended to apply also to non-international armed conflicts. Similarly, in 2001, the Second Review Conference extended the remaining Protocols in force to non-international armed conflicts. Today, the Convention's rules apply in all situations of armed conflict.

Although most of its rules regulate behaviour during armed conflict, the CCW also requires action after the end of active hostilities. In particular, Protocol II as amended and Protocol V require the

parties to a conflict to take specific measures in the post-conflict setting to minimize the dangers posed by mines, booby traps and other forms of unexploded and abandoned ordnance.

Protocol I: Non-detectable fragments

Protocol I prohibits the use of any weapon of which the primary effect is to injure by fragments that are not detectable in the human body by X-rays. The use of such weapons is now defined as a war crime under the Statute of the International Criminal Court (ICC) (Arts 8(2)(b)(xxviii) and 8(2)(e)(xvii)).

Protocol II: Mines, booby traps and other devices

Protocol II, as amended in 1996, prohibits or restricts the use of landmines (both anti-personnel and anti-vehicle), booby traps and certain other explosive devices. These are defined as follows (Art. 2).

- **anti-personnel mine:** a mine primarily designed to be exploded by the presence or contact of a person and that will incapacitate, injure or kill a person (anti-personnel mines are further regulated by the 1997 Convention on the Prohibition of Anti-Personnel Mines, which prohibits the use, production, stockpiling and transfer of such weapons for States that are party to the instrument)
- **booby trap:** any device designed or adapted to kill or injure, and which functions unexpectedly when a person disturbs or approaches an apparently harmless object (e.g. opens a door)

- **other devices:** manually emplaced munitions and devices, including improvised explosive devices, which are designed to kill or injure and which are actuated manually, by remote control or automatically after a lapse of time.

Although they are not defined in the Protocol, anti-vehicle mines are regulated by the Protocol's general rules (Art. 3) and a specific rule in Art. 6(3).

General rules

The following acts are prohibited:

- using mines, booby traps and other devices if they are of a nature to cause unnecessary suffering or superfluous injury (Art. 3(3))
- using these weapons if they are designed to explode when detected by mine-detection equipment (Art. 3(5))
- directing these weapons against civilians or civilian objects (Art. 3(7))
- using these weapons indiscriminately (Art. 3(8)).

Parties to the conflict which use mines, booby traps and other devices must:

- remove them following the end of active hostilities (Arts 3(2) and 10)
- take all feasible precautions to protect civilians from their effects (Art. 3(10))
- give effective advance warning of any emplacement of these weapons that may affect the civilian population (Art. 3(11))
- maintain records on the locations of such weapons (Art. 9)
- take measures to protect missions of the United Nations, the ICRC and other

humanitarian organizations against the effects of these weapons (Art. 12).

Specific rules

(1) Mines

- All **anti-personnel mines** must be detectable using commonly available mine-detection equipment (Art. 4 and the Technical Annex).
- **anti-personnel mines other than those delivered remotely** must be equipped with self-destruction *and* self-deactivation mechanisms as specified in the Technical Annex unless they are (Art. 5):
 - a) placed within a perimeter-marked area monitored by military personnel and protected by fencing or other means, to ensure the effective exclusion of civilians from the area, *and*
 - b) cleared before the area is abandoned.
- **Remotely delivered anti-personnel mines** must comply with the provisions on self-destruction *and* self-deactivation (Art. 6(2)).
- **Remotely delivered anti-vehicle mines** must, *to the extent feasible*, be equipped with an effective self-destruction or self-neutralization mechanism *and* have a back-up self-deactivation feature (Art. 6(3)).
- Mines prohibited by the Protocol cannot be transferred. No mine may be transferred to an entity other than a State, and it is prohibited to transfer anti-personnel mines to States that are not bound by the Protocol, unless the recipient State agrees to apply it (Art. 8).

(2) Booby traps and other devices

Booby traps and other devices cannot (Art. 7):

- take the form of any apparently harmless portable object
- be used in an area containing a concentration of civilians and in which combat is not taking place
- be attached to or associated with a range of items, including: recognized protective emblems or signs; sick, wounded or dead persons; medical equipment; toys; food or historic monuments.

Among their general obligations, States Parties must take all appropriate steps, including legislative and other measures, to prevent and suppress violations of the Protocol by persons or on territory under its jurisdiction or control (Art. 14).

Protocol III: Incendiary weapons

Incendiary weapons are those that are primarily designed to set fire to objects or to burn persons through the action of flame or heat, such as napalm and flame throwers (Art. 1).

It is prohibited in all circumstances to use them against civilians. It is also prohibited to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons.

Finally, it is prohibited to make forests or other kinds of plant cover the object of attack by incendiary weapons unless they are being used to conceal combatants or other military objectives (Art. 2).

Protocol IV: Blinding laser weapons

Protocol IV prohibits the use of laser weapons specifically designed to cause permanent blindness, and the transfer of such weapons to any State or non-State entity (Art. 1).

When using laser systems, all feasible precautions must be taken to avoid permanent blindness. These precautions must include training of armed forces and other practical measures (Art. 2).

The use of laser weapons specifically designed to cause permanent blindness to unenhanced vision is now defined as a war crime under the ICC Statute (Arts 8(2)(b)(xxix) and 8(2)(e)(xviii)).

Protocol V: Explosive remnants of war

Protocol V requires the parties to a conflict to take measures to reduce the dangers posed by explosive remnants of war (ERW).

ERW are explosive ordnance that have been used or fired but have failed to explode as intended (unexploded ordnance) and stocks of explosive ordnance left behind on the battlefield (abandoned ordnance). Such weapons include artillery shells, mortar shells, hand grenades, submunitions and other similar weapons. The Protocol does not apply to the weapons covered by Protocol II as amended (mines, booby traps and other devices).

The Protocol requires each party to an armed conflict to:

- mark and clear ERW in territory they control after a conflict (Art. 3(2))
- provide technical, material and financial assistance to facilitate the removal of ERW that result from its operations and which are located in areas it does not control. This assistance can be provided directly to the party in control of the territory or through a third party such as the UN, international agencies or non-governmental organizations (Art. 3(1))
- take all feasible precautions to protect civilians from the effects of ERW. This may include the fencing and monitoring of territory affected by ERW, and the provision of warnings and risk education (Art. 5)

- record information on the explosive ordnance employed by its armed forces and, after the end of active hostilities, share that information with the other parties to the conflict and organizations engaged in ERW clearance or programmes to warn civilians of the dangers of these devices (Art. 4).

In addition to the obligations placed upon the parties to a conflict, all States Parties in a position to do so must provide assistance for the marking and clearance of ERW, risk education, and assistance for the care, rehabilitation and socio-economic reintegration of ERW victims.

The Protocol's obligations are not absolute. Nevertheless, they provide a clear and agreed framework to facilitate a rapid response to ERW and, if implemented in good faith, can go far in addressing the problem.

Although the Protocol's rules apply only to conflicts that occur after the Protocol's entry into force, States already affected by ERW when they become a party are accorded "the right to seek and receive assistance" from other States Parties to address their ERW problem. In parallel, States Parties in a position to do so are obliged to provide assistance to help ERW-affected States Parties reduce the threats posed by the weapons.

Review and implementation machinery

States Parties meet annually to review the status and operation of the CCW and its Protocols. Regular meetings of governmental experts are held to facilitate the implementation of these instruments and to consider new issues that may be appropriate for regulation under the CCW, such as anti-vehicle mines, cluster munitions and lethal autonomous weapons systems.

The "compliance mechanism" established by States Parties in 2006 allows them to convene, as necessary, meetings on compliance issues. It also requires States Parties to take legislative and other measures to prevent and suppress violations of the CCW and its Protocols, including to instruct their armed forces in the treaty's requirements. The mechanism established a pool of experts to provide assistance to States in relation to their obligations under the Convention.

In 2009 States Parties decided to establish an Implementation Support Unit to act as secretariat for all CCW meetings and to support States in the implementation of the Convention.