WASHINGTON'S RESPONSE TO THE OTTAWA LAND MINES PROCESS

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> [T]oday I am proposing a first step toward the eventual elimination of a less visible but still deadly threat: the world's 85 million anti-personnel land mines, one for every 50 people on the face of the Earth. I ask all nations to join with us and conclude an agreement to reduce the number and availability of those mines. Ridding the world of those often hidden weapons will help to save the lives of tens of thousands of men an women and innocent children in the years to come.[1]
>
> President Bill Clinton,
> 26 September 1994

> Last month I instructed a U.S. team to join negotiations then underway in Oslo to ban all anti-personnel mines. Our negotiators worked tirelessly to reach an agreement we could sign. Unfortunately, as it is now drafted, I cannot in good conscience add America's name to that treaty.[2]
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> President Bill Clinton,
> 17 September 1997

*A list of acronyms used in this article is provided on page 27.

In a much celebrated September, 1994, address to the 49th Session of the United Nations General Assembly, President Bill Clinton exhorted the international community to concentrate its efforts towards securing the global elimination of land mines. Just over three years later, in December, 1997, 122 countries gathered in Canada to sign the Ottawa Convention - formally titled the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*. Yet, despite widespread international support for it, the United States glaringly opted not to sign this agreement - the most significant negotiated to date to eliminate land mines.

This essay chronicles Washington's land mine policy during the tenure of President Bill Clinton, and more specifically, the U.S. approach toward international efforts to secure a land mine elimination agreement. Drawing in part on extensive interviews with key U.S. negotiators from the Department of State, Department of Defense, Arms Control and Disarmament Agency (ACDA), and the National Security Council (NSC), it will examine the period from May, 1996, to December, 1997, paying close attention to Washington's evolving position toward the Ottawa Process, the decision to utilize the Conference on Disarmament (CD) as the most appropriate forum for land mine elimination negotiations, and America's late commit-

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ment to Convention negotiations at the September, 1997, Oslo Diplomatic Conference.[3] Scrutiny will also be paid to the negotiation positions advanced by the United States at Oslo, with particular attention given to examining why the U.S. could not endorse the final text of the Convention. Was U.S. reluctance motivated, as some observers have suggested, by a deep seated disdain for the actors, methods and forum that made up the unconventional Ottawa Process? Was the Department of Defense, as others have alleged, simply unwilling to surrender a much valued weapon of war? This essay will clarify the political and military factors of the Ottawa Convention for the United States (considerations that combined to prevent Washington from signing), and comment on the land mine policy of the U.S. in the post-December, 1997, period.

Admittedly, the land mine issue does not neatly fit within the confines of the bilateral Canada-United States relationship. While it is clear that Canada championed and steered the issue to a successful conclusion - i.e., the realization of the Ottawa Convention - Washington's position on land mine use, and especially land mine elimination, was not simply a response to the position advocated by Canada. The issue of global land mine elimination transcended North American borders to capture worldwide attention, involving more than one hundred states, several international groups and hundreds of NGOs. Instead of placing the subject of Washington's approach toward land mine elimination in a strictly Canada-U.S. political context, this essay demonstrates that Washington's response to the issue was driven by considerations above and beyond the self-contained realm of Canada-U.S. relations.

I. U.S. LAND MINE POLICY: PRELUDE TO OTTAWA

Much effort to restrict land mines, albeit sporadic and less than fully successful, had been spent by the international community - including the United States - prior to the onset of the Ottawa Process. The 10 October 1980 Convention on Conventional Weapons (CCW) represented the first major breakthrough in an effort to address the humanitarian horrors inflicted by land mines.[4] Protocol II of the *CCW - Prohibitions or Restrictions on the Use of Mines, Booby-traps* and Other Devices - was by no means, however, a definitive solution. In the face of ongoing and increased use of land mines and concomitant accidents/deaths, most notably in Afghanistan, Angola, Cambodia and Mozambique, public and private observers throughout

the 1980s and early 1990s found the 1980 Protocol to be increasingly ineffective.[5] The CCW, it was recognized, failed on several counts including 1) the absence of adequate verification methods to ensure state compliance and enforce implementation; 2) the absence of any meaningful political, economic, or military penalties to punish violators; 3) the inapplicability toward domestic or intrastate conflict; 4) the restrictive focus on land mine use (as opposed to production, stockpiling, transfer, etc.); and, 5) the lack of an effective mechanism to guarantee ratification and implementation.[6]

In an attempt to design tougher measures to combat the myriad problems stemming from land mine use, the international community reconvened in 1995 at the Review Conference of the CCW.[7] These meetings, held in Vienna and Geneva from 25 September-13 October and also in January and 22 April-3 May 1996, culminated in a revamped Protocol II, yet one that still failed to fully satisfy many states, international organizations, and non-governmental organizations alike.[8] A sense of frustration led eight like-minded states (Austria, Belgium, Canada, Denmark, Ireland, Mexico, Norway and Switzerland), the International Committee of the Red Cross (ICRC) and the International Campaign to Ban Land mines (ICBL) "to explore the potential for a new track of diplomatic action on the AP mine issue."[9] These discussions, which began on 19 January 1996 with subsequent meetings in April and May, were ironically attempting to identify an alternative land mine ban course of action, even as the CCW Review Conference continued on. By the conclusion of the CCW Conference on 3 May 1996, Canada - arguably the most determined state leading the initiative for a more meaningful land mine ban agreement - declared its intention to convene a multilateral forum in the latter part of 1996. The meeting would be designed to identify and implement a plan of action to meet the desired end.[10]

For its part, the United States, which had played an active role in crafting the CCW Protocol revisions, was not yet prepared to participate in (let alone endorse) what would soon come to be known as the Ottawa Process.[11] In the Spring of 1996, Washington was instead engaged in an internal policy review to determine the military use of, and need for, land mines. This review, announced on 16 March 1996 and ordered by the Chairman of the Joint Chiefs of Staff, General John Shalikashvili, culminated two months later.[12] Prior to President Clinton's statement on 16 May, the broad contours of America's landmine policy, had been publicly disclosed.[13] The land

mine position of the United States, as outlined by the President, would include the following components:

1) a renewed commitment to seeking an international agreement to eventually eliminate all land mines;
2) a commitment to eliminate all non self-detonating/ self-deactivating (i.e., "dumb") land mines from the U.S. arsenal by 1999, with the exception of more than one million land mines used to protect American and South Korean defense forces against a potential military attack from North Korea; and,
3) a decision to continue the use of self-detonating/self-deactivating (i.e., "smart") land mines until such time as effective alternatives were designed to replace them or an international land mine elimination accord was reached.[14]

As described by Department of Defense spokesman Kenneth Bacon, the revised policy was tacit recognition of political preferences combined with military realities. "We're looking for a formula that will meet the President's promise of eliminating the use of anti-personnel land mines.... There's a humanitarian imperative to do this, but we have to balance the humanitarian imperative with the need to protect our forces."[15]

The summer of 1996 witnessed no substantive changes to the newly enunciated U.S. land mine policy. Washington's focus shifted to the question of whether or not to participate at the upcoming Canadian-sponsored international forum on eliminating AP mines, scheduled to be convened in Ottawa. U.S. officials from State, Defense, ACDA and the NSC met with Canadian representatives from the Department of Foreign Affairs and International Trade (DFAIT) and Department of National Defence (DND) on several occasions to discuss the format, scope, purpose and intended outcomes of the Ottawa Conference. As one Department of State participant involved in the talks put it:

> we were well aware that a number of states - Canada, Austria, Norway and the like - were dissatisfied with the CCW Review outcome. The NGO community was even more frustrated by the May result. They viewed the upcoming Ottawa meetings in a redemptive light... as an opportunity to create a fresh start to rid mines from the world. Our concern at this time was ensuring that any

> declaration to emerge from Ottawa be non-binding on parties... A deadline to eliminate mines by, say, 2000 was from our perspective wholly artificial and inconsistent with past international negotiations and with our security commitments.[16]

Canadian officials emerged from these meetings convinced that the U.S. was reluctant to commit to a speedy ban on land mines and was generally skeptical of Canadian efforts to marshal the international community toward a land mine elimination pact.[17] Nonetheless, the U.S. agreed to attend the 3-5 October Ottawa Conference, titled "Towards a Global Ban on Anti-Personnel Mines," as a full participant.[18]

II. THE OTTAWA PROCESS

A. A Different Road Taken

The position taken by the U.S. at the Ottawa Conference was to underscore the central features of its May, 1996, land mine policy. Despite an ongoing commitment to international negotiations to eliminate land mines, it remained unwilling to agree to any formal deadline. Against a backdrop of intensive lobbying efforts from NGOs and the positions of many pro-AP mine ban states, Thomas McNamara, principal deputy Assistant Secretary of State (Bureau of Political Military Affairs) and head of the U.S. delegation, insisted that "we [the United States] are not prepared at this point to set a certain or fixed date... [O]ur position is that we do it as soon as possible... We do have a target - it's as soon as possible."[19] For any international AP mine ban to be effective, McNamara argued, "it has to be global, worldwide... [T]hat doesn't mean every country in the world has to sign on before we sign on, but it does have to be worldwide."[20] Along with several states, including Britain, France and Germany, the United States advocated that the most appropriate forum for negotiating and securing a global land mine elimination pact was the United Nations-sponsored Conference on Disarmament.

At the conclusion of the conference, some fifty states, including the U.S., agreed to support the Ottawa Declaration. The declaration, essentially a statement pledging political cooperation, notably underscored the pressing need to undertake "urgent action on the part of the international community to ban and eliminate [land mines]," by committing states "to ensure the *earliest possible conclusion* of a

legally-binding international agreement to ban anti-personnel mines."[21] The terms and conditions outlined in the Ottawa Declaration were, for all intents and purposes, consistent with U.S. land mine policy. In the words of one U.S. official, "the final statement at Ottawa generally satisfied our needs and was more or less in lock step with our overall APL [antipersonnel land mine] policy. *However, the announcement by [Lloyd] Axworthy was not supportive of the direction we wanted to go."*[22]

That announcement, which came as a bolt out of the blue to most participants and observers at the conference, including the United States, stated Canada's intention to convene an international land mine elimination treaty-signing conference in December, 1997.[23] In short, Axworthy had unilaterally imposed a fourteen-month time frame for the drafting and negotiation of a land mine elimination agreement; an agreement which would be opened for signature by states in December, 1997. Ralph Lysyshyn of DFAIT provides a detailed insight into the origins of the December, 1997, deadline:

> Basically what happened was that as we were going into the conference and it was clear that the momentum on the issue was growing, we started to have discussions asking "well maybe there's some way we can cap this momentum and give it a push..." While the conference was going on and I was chairing the conference, two things became clear: one thing was that there was tremendous momentum in this... it had a real salience with the public, and the NGO community, international organization community was far more organized around this issue than I think most security people recognized. Second was that while a lot of governments had come on board in order to be in the conference as full participants, their commitment to the issue was quite superficial. The people who had been asked to run it [i.e., the conference delegates] were arms controllers who didn't see or understand the humanitarian dimension and who either wanted to kill the issue or were prepared to see it treated like a conventional arms control issue and direct it into the Conference on Disarmament (CD). A third point was that among the sort of committed nations there were a couple that were clearly positioning themselves to grab the initiative.[24]

These imperatives led Mr. Lysyshyn to take prompt action:

> As I sat there I said "we need to do something that captures the momentum. We need to do something that keeps the lead in Canada. We needed to do something that prevents those who wanted to work it into the Conference on Disarmament." I said "well the way to do it is to call for a treaty in one year." At the point that I thought of this, I left the chair to phone my boss to explain my rationale to him, and said that "if I'm going to do this kind of thing, I need the resources to do it." I wanted my money up front. So I asked for the money [and the one year suggestion and the necessary financial resources were almost immediately approved].[25]

This unilateral decision was not greeted with raw enthusiasm by the U.S. "We were totally surprised," notes one member of the U.S. team. "We had been assured that if we came [to the Ottawa Conference] that the Ottawa Declaration would not be close ended. We worked with the Canadians to develop the Ottawa Declaration... The idea originally was that we were going to be open... Then on the last day of the conference Mr. Axworthy dropped the bomb on us."[26] In the words of a State Department official: "They essentially boxed us in and made everybody extremely angry... the reaction in the U.S. government was extreme anger at the Canadians... we were extremely unhappy with the Canadians, who we thought [were] grandstanding at our expense.[27] Karl Inderfurth, Deputy U.S. Ambassador to the UN and a member of the American delegation, offered the U.S. official response:

> Clearly all of us attending this conference feel strongly about the subject, and this initiative put on the table by the Canadian Foreign Minister is one that we will look at... We're not prepared to set a date, but we are prepared to start work immediately on an international agreement to ban land mines. If this can take place within that time frame and if our concerns can be met, we'll be very supportive.[28]

This initial response was immediately followed, according to one study, by a "sharply worded *démarche* to Canada," and the calling in of "Canadian officials to express U.S anger at Axworthy's shock announcement."[29]

Clearly disappointed and somewhat frustrated by Canada's actions, Washington reviewed its options in the fall of 1996 for pursuing an international land mine ban. A commitment to full participation in the newly launched Ottawa Process was dominated by one overwhelming consideration: could an international agreement be negotiated that would effectively recognize, incorporate, and reconcile itself to America's existing land mine platform? Most observers in Washington believed this unlikely, particularly given the December, 1997, deadline, but were not yet prepared to completely abandon the politically attractive Ottawa Process. "The issue," according to a senior State Department source, "was would we be part of that [Ottawa] Process and try to influence and lead it or did we think that Process was going to be so inimical to our interests that we were going to try and draw off others into a different process where we could manage it better?"[30]

That latter possibility available to the U.S. was to seek international agreement through the Conference on Disarmament. The immediate drawback to the CD process was obvious to all concerned - as an international forum designed to address arms control, disarmament, and elimination issues, the CD utilized a consensual (as opposed to a majority type) decision-making model. The probable net effect of this institutional mechanism would be to prolong the possibility of achieving an AP mine ban international agreement. On the other hand, the CD venue offered two attractive features not contained in the Ottawa Process. First, the Geneva-based Conference on Disarmament contained several states whose signature and subsequent participation would be required if a land mine ban were, from Washington's perspective, to be truly effective. Several of these actors, including Russia, China, Iraq, North Korea, Syria and Israel were not participants in, and indeed publicly and privately dismissive of, the Ottawa Process. The second and arguably more compelling lure of the CD for the United States was the belief that no matter the time required, a final accord would capture the political realities and military necessities of America's land mine policy set forth in May 1996.[31]

As it considered these two diplomatic avenues, the U.S. continued to reaffirm its commitment to seeking a global land mine ban - a commitment, albeit, that purposely included no firm, negotiated deadline. As co-sponsor of U.N. General Assembly Resolution 51/45S, the U.S. committed itself (much like it had in the Ottawa

Declaration) to "pursue vigorously an effective, legally binding international agreement to ban the use, stockpiling, production, and transfers of anti-personnel landmines with a view to completing the negotiation as soon as possible."[32]

Washington's preferred option for negotiating an international land mine ban was announced on 17 January 1997. Much to the consternation of pro-Ottawa Process forces - which included various states, international organizations, nongovernmental organizations, and congressional supporters, most notably Senator Patrick Leahy of Vermont - President Clinton stated that the U.S. would commit its focus and energies to the UN Conference on Disarmament.[33] The vote in favor of the CD, according to one American official intimate with the decision, reflected the desires of the Pentagon: "the Department of Defense was the agency who wanted to push on the CD process. [The] State [Department] was saying 'you'll come up empty.' DOD's response was they thought that some progress at [the] CD would be made and that the Ottawa Process would blow over and dissipate."[34] While determined to proceed with the CD route, Robert Bell, Special Assistant to the President and Senior Director for Defense Policy and Arms Control at the National Security Council, stressed that Washington continued to support the Ottawa Process initiative. "We are not going to allow this," Bell noted, "to develop as a competition between the United States and Canada."[35]

The decision by Washington to concentrate over the next several months on the CD, while not completely abandoning the Ottawa Process, was viewed as a win-win situation by many U.S. officials. Following such an approach would allow the U.S. to seek first a consensus on land mine elimination at a preferred forum (the CD) that potentially promised a comprehensive international agreement. If that possibility did not emerge, however, the U.S. would be in a position to review the evolution, status, and direction of the Ottawa Process to determine whether U.S. interests could ultimately be met through this initiative.

The Conference on Disarmament which began on 20 January proved to be an exercise in futility for the U.S. Despite repeated attempts by American officials from January-June 1997 to include the land mine elimination issue on the official proceedings at the CD, success remained unattainable. Indeed, the agenda adopted at the CD in the middle of February, notes one observer, "did not include anti-personnel land mines."[36] Several contributing factors effectively

created procedural roadblocks for the U.S., including continued support for the use of land mines by some states, a distinct preference by certain states to address the land mine issue through the Ottawa Process, and an insistence by other members that the CD needed first and foremost to address the need for international nuclear disarmament.[37] U.S. officials acknowledged these difficulties in early March, 1997, conceding that the prospect for movement - let alone the creation of an international accord on the issue of land mines - was slim. "I don't think there's very much chance as we stand right now," noted Stephen Ledogar, head of the U.S. delegation, "of getting a negotiation started in the near term. You have a whole series of folks who are unlikely to even agree to the mechanism to get the negotiations started."[38] The depth of U.S. frustration, particularly in the face of seemingly irreconcilable national agendas at Geneva, was expressed in a speech given at the CD on 15 May 1997 by John Holum, Director of the Arms Control and Disarmament Agency. In the course of his remarks, Mr. Holum expressed U.S. disappointment with the inability of CD members to agree to take up the land mine issue. Pointedly asking "[w]hy is this body only negotiating about [land mine] negotiations?", Holum cited "the paralyzing obstacle of linkage to other causes."[39] "Grave damage can be done to the Conference on Disarmament itself," Holum continued, "as its credibility, standing and effectiveness are sapped by months of inaction, foreshadowing an empty future."[40] "The Conference on Disarmament," Robert Sherman of ACDA noted, "is very, very slow. The reason is that it requires consensus to even begin negotiations, and we have been unable to get that... [W]e've been blocked to some extent by the countries that don't want to have a mine ban and also to some extent by the Ottawa Process countries that didn't want a rival process to gain momentum."[41] Robert Bell of the NSC offers this observation on the 1997 CD experience:

> We were in Geneva, trying to do something different and, we thought, better [than the Ottawa Process]. It was certainly well-intentioned. We said, if you're going to have a comprehensive response to this global catastrophe being caused by land mines, you've got to have a global solution. So we went in the front door. We said, let's get a negotiating table with Russia, China, India, Pakistan, Iraq, Iran, North Korea -- sit down and negotiate a treaty where we will all solve this problem.

> That's why we went to the Conference on Disarmament — because all of those states are at the negotiating table in that forum ... [W]hen we got to land mines, they couldn't get out of the starting block. And it's a great disappointment that the CD was inadequate to this task ... So after six months of trying hard, we said, this is not going anywhere. And as the President promised in January, if six months after trying it doesn't work out we will go to plan B.[42]

By June, 1997, it was clear to Washington that the CD process would not bear fruit. From early July to mid-August, and in accordance with American AP mine negotiation policy guidelines established the previous January, the U.S. policy community engaged in a compelling interagency review. The review, which included officials from State, Defense, ACDA, NSC, and the intelligence community, was structured to address two issues: 1) the lack of immediate progress and concomitant prospects for future success at the CD and, 2) the status of the Ottawa Process and whether, most importantly, to commit to join negotiations in the Ottawa Process forum (i.e., "Plan B").[43] "The review," notes an official at the NSC, was an attempt to determine "where we were on the question of APL...We had put down a marker for ourselves [in January 1997] to start a review process in July 1997."[44] A similar, albeit more complete characterization, is offered by a Department of State official:

> When the United States made the decision in January of 1997 to go to the CD to try to negotiate there, part of that decision written right into it was the recognition that it would be difficult and therefore we would review our position at the end of the second round of the CD. The second round of the CD ended June 28 (or the very end of June) and immediately following that we did begin our review. But the interagency process grinds slow... and it just took a while to review all that had happened in the CD or hadn't happened, all that had happened in the Ottawa Process or hadn't, and then to try to figure out if we were to go [and join in Ottawa Process negotiations scheduled for September in Oslo, Norway], did we have any chance and if so what would be our positions. How would we try to change the [draft] treaty so that it would be something that would still achieve humanitarian goals we shared with people but also protect the security and interests of

not just the United States but many other countries? And that took awhile, it took six weeks.[45]

The lack of results at the CD, interagency review officials noted, stood in sharp contrast to the positive momentum of the Ottawa Process. States, international organizations, and nongovernmental organizations, increasingly supportive of this effort, had successfully engaged in a series of constructive land mine elimination treaty-building activities throughout 1997. With the completion of an initial draft treaty by Austria, actors involved in the Ottawa process met in Vienna (the 12-14 February Expert Meeting on the Text of a Total Ban Convention), Bonn (the 24-25 April Expert Meeting on Compliance) and Brussels (the 24-27 June International Conference for a Global Ban on Anti-Personnel Mines), to examine the necessary conditions and provisions to be contained in a final treaty.[46] The Brussels Conference, ironically coinciding with the conclusion of the CD, produced a political declaration committing parties - 97 states, not including the U.S., signed the declaration - to final negotiations in Oslo in September and to a subsequent treaty-signing conference scheduled for December in Ottawa.[47]

The key decision of the interagency process - i.e., whether or not to participate in the September negotiations - was announced by President Clinton on August 18. While still committed to the CD as the forum of choice for seeking a comprehensive international land mine ban treaty, the President acknowledged that the U.S. would participate in the Oslo negotiations.[48] "The United States," Mr. Clinton observed, "will work with the other participating nations to secure an agreement that achieves our humanitarian goals while protecting our national security interests."[49] "There has been a reordering of priorities," noted Eric Rubin of the NSC. "The Ottawa Process is showing impressive gains. It may not achieve the ultimate goal of a comprehensive ban on land mines, but it may be very useful toward achieving that goal."[50] Despite committing to Oslo, the position of the United States entering negotiations was clear: the U.S. would not be prepared to sign the Ottawa Process treaty unless significant modifications were made to the existing text to accommodate its land mine national interests. "I think that everybody from the President down," according to a Department of State official, "recognized that, to put it mildly, we were facing a difficult situation... [and] no one, I repeat no one was wildly optimistic about our chances of negotiating those changes we felt necessary."[51] "What the delegation

is seeking to do is to determine if we can affect the language in the treaty which will enable us to sign up to it in December," noted a Department of Defense spokesman. "[T]he whole purpose of this group going over there," the Pentagon candidly argued,

> is to see what we can negotiate in terms of language for the treaty and to see if we can, in the end, participate in the signing of the treaty... We don't know at this point whether that's going to be possible. We hope that it will because we feel that this venue... this is an additional venue which offers opportunities that were not possible in the CD process because of the slow pace of activity there.[52]

B. The Oslo Negotiations

Immediately prior to the commencement of negotiations on 1 September at the Oslo Diplomatic Conference on an International Total Ban on Anti-Personnel Mines, the United States dispatched a delegation to Geneva to meet with several states. The purpose of the meetings, requested by Washington, was to allow U.S. officials, led by Eric Newsom, principal deputy secretary in the Bureau of Political-Military Affairs at the State Department, the opportunity to outline the negotiation positions that would be pursued by the U.S. at Oslo, as well as to express reservations about existing draft treaty conditions and language.[53] "The whole idea was to turn around the dynamic of the Ottawa Process before we got to Oslo," according to a senior U.S. official, "by showing countries what our real bottom line was and enlisting their support."[54] "From our perspective," noted one member of the U.S. team, "it provided us with one final chance before Oslo officially started to detail our concerns and to gauge what level of support, if any, would be extended to us."[55] The contents of the U.S. negotiation platform had in fact been outlined to several states participating in the Ottawa Process in a 20 August letter from Secretary of State Madeleine Albright.[56] It came as little surprise, therefore, when the United States publicly disclosed its position at Oslo. Five issues were of central concern to Washington: 1) the need for stronger verification procedures; 2) an exemption for continued AP mine use in Korea; 3) a suitable transition period for treaty compliance; 4) conditions governing the rights of states to withdraw from the treaty; and, 5) the right to continue to use anti-tank mines.[57] Eric Newsom, head of the U.S. delegation insisted:

> Antipersonnel mines are woven throughout our defense structure, our defense doctrine, our weapons systems and our planning. All of that will have to be adjusted if we have to give up antipersonnel mines. We cannot do that overnight... To an important extent the American position reflects the fact that this treaty is not going to have universal participation. We are going to be coping with a world in which we are giving up our land mines and many other countries are not.[58]

The first two weeks of the Oslo Conference witnessed repeated efforts by the U.S., in plenary sessions and in smaller working group venues, to enlist support for its negotiation platform. Apart from the limited support offered by the United Kingdom, Australia, Germany, Japan, Poland, Spain and Ecuador for specific U.S. proposals, no progress was immediately discernible except on the issue of verification. On this latter issue, the United States was able to generate broad-based support for a rigorous verification and compliance measure. Concerns abounded, however, on the American request for a Korean exemption. Most states, international organizations and non-governmental organizations rejected this demand outright, convinced that the granting of an exemption would lead other states to demand similar considerations, thereby weakening the overall impact of the treaty. Many also believed that there was little or no military utility for land mines in the case of Korea, and that suitable technological and strategic alternatives were available to the U.S. A nine-year transitional delay of entry-into-force for the treaty was likewise rejected by the overwhelming majority of states. American claims that an adequate transition period was necessary to develop, test, and integrate new military instruments to replace landmines fell on deaf ears. Next, the U.S position on treaty withdrawal (a 90-day notification period and the right of withdrawal if a state should be engaged in war) was not widely supported. Finally, attempts to classify smart mines and anti-handling devices attached to anti-tank and anti-vehicle mines as submunitions and not as land mines were equally fruitless. A subsequent decision by U.S. negotiators to re-categorize these forces as anti-handling devices as opposed to submunitions met with the same negative result.

Confronted with the uncomfortable realities of Oslo, the United States next opted to pursue two related avenues: to reformulate its negotiation platform and to seek international support, spearheaded

through the direct diplomatic intervention and efforts of President Clinton, for the new U.S. position. The re-configured American platform, which would be presented on 16 September at the Oslo Conference, no longer contained an exemption for Korea and instead focused on three issues:

1) the right, for nine years, to defer compliance with specific treaty conditions;
2) the right to withdraw from the treaty if a state determined that it was, in keeping with the standards set forth in the United Nations Charter, a victim of armed aggression; and,
3) a re-definition of anti-handling devices so as to permit the use of such weapons not physically attached but near anti-tank mines.[59]

To win support for this package of proposals, President Clinton personally spoke with several political leaders, including Canadian Prime Minister Jean Chretien, South African President Nelson Mandela, British Prime Minister Tony Blair, and French President Jacques Chirac.[60]

This retooling of American priorities was acknowledged by Department of State spokesman Jim Foley in a 15 September press briefing: "There's been a negotiating change... we have come forward with a compromise proposal which is being discussed now among a number of delegations in Oslo... the United States has shown, I think, a remarkable degree of flexibility in arriving at this proposal... these significant compromise proposals."[61] Characterizing the modification to the U.S. platform as "a very serious good faith effort," Foley underscored that while "the negotiations have been tough sledding so far," Washington was now "counting on our friends and allies at Oslo to meet us half-way, as we've now moved half-way."[62]

The most complete public statement of revised U.S. negotiation objectives was offered by the Department of State:

> The United States decided that we could drop our proposed exception for Korea and we could resolve our security concerns in Korea and elsewhere through a time-bound deferral period long enough to meet our needs - nine years, that is. We further agreed that this deferral period would run from the time of signature and not from the time of entry into force, as we had originally envisaged.
>
> However, we are also seeking two *modest but absolutely*

critical modifications in the current draft text of the treaty. First, we are calling for a revision in the current article on treaty withdrawal. We would need to include a clause that would allow countries to withdraw from the treaty if they or their allies are victims of aggression...

Secondly, we would need to revise the current draft text definition of anti-handling devices to avoid banning U.S. anti-tank mine munitions. In other words, we seek a modification in the definition of anti-personnel land mines to make clear that certain U.S. anti-tank mine systems are not covered by the treaty. This revision would enable the United States to retain its principal anti-tank mines...[63]

In an attempt to gain converts for the revised U.S. platform, the American delegation at Oslo - upon presenting its new negotiation positions on 16 September - requested, and was given, a twenty-four hour extension.[64] "Negotiations in Oslo are in their final stages," noted the Department of State.

Discussion is intense because we're in the endgame at Oslo...As you may know, we're in a pause right now to permit all participants to thoroughly consider the new proposals...[Discussions] reopen again tomorrow, and we remain hopeful that our proposals that we unveiled over the weekend will find favor and that a consensus will be able to emerge around them.[65]

The reconsideration (i.e., international accommodation of American land mine interests) that Washington sought never materialized, and on 17 September the United States officially withdrew from the negotiations.[66] The following day, the plenary session of the Oslo Conference formally voted to adopt the treaty.

Eric Newsom underscored the lack of support demonstrated by the international community toward U.S. efforts: "Regrettably, intensive consultations over the long weekend revealed that this very significant compromise proposal did not have sufficient support from the most influential delegations here to be accepted."[67] "The advice we were giving the Americans," notes Ralph Lysyshyn, head of the Canadian delegation, "was that the only thing that they could get, of the things they were asking for, would be a time-bound transition period."[68] From the perspective of one senior U.S. delegate at Oslo, political cooperation was in short supply: "there was really no flexibility toward the U.S. at the Oslo Conference and it's really a

shame... the third week at Oslo was ceremonial with practically no one genuinely interested in facilitating a deal... most everybody was more interested to see if the U.S. would cave in." "It's too bad we couldn't reach a consensus during this particular round," lamented Deputy Secretary of State Strobe Talbott.[69]

In officially announcing that the United States would not support and hence not sign the Convention generated by the Ottawa Process, President Clinton emphasized the need to uphold national security interests, citing America's "unique responsibilities for preserving security and defending peace and freedom around the globe."[70] The President was not prepared to support a Convention that, in the absence of effective alternatives, mandated the elimination of U.S. land mines. Such a development would, the President concluded, unnecessarily increase the risk to members of the American armed services. "I will not send our soldiers," Clinton noted, " to defend the freedom of our people and the freedom of others without doing everything we can to make them as secure as possible... [T]here is a line that I simply cannot cross, and that line is the safety of our men and women in uniform."[71]

The U.S. experience at Oslo, Mr. Clinton underscored, had been painful. American negotiators had insisted, at the end, that two critical provisions be included in the Ottawa Convention: the need for an adequate transition period, and the right to use antitank mines. These two demands, President Clinton emphasized, were not "abstract considerations" but instead accurately reflected American global responsibilities. The defense of the Korean peninsula, where some 37,000 American forces along with South Korean troops faced off against a North Korean army of over one million strong, was the paramount example of America's continued need for antipersonnel and antitank mines.

It was left to Robert Bell of the NSC to provide the fullest interpretation of the U.S. negotiation position and the concomitant decision to withdraw from Oslo. Speaking in the White House briefing room, Mr. Bell outlined America's approach to the three-week negotiations, emphasizing Washington's demonstration of "considerable flexibility" and "good-faith effort[s]."[72] Bell reiterated that Washington had sought five fundamental improvements to the Convention, and had considered various policy formulations, particularly as negotiations entered the third week at Oslo. Describing the process as "a very dynamic negotiation through and past the 11th

hour," Bell sought to discuss, in turn, each of America's concerns.[73] Improved verification measures were required, particularly in the area of detailed information on data exchanges and fact-finding teams responsible for ensuring state compliance with the Convention. These items, Bell noted, were successfully incorporated into the final agreement. On the issue of Korea, however, Bell indicated that attempts to secure an exemption or nine-year transition period to resolve the issue - i.e., to allow the U.S. sufficient time to identify and develop satisfactory alternatives to land mines proved futile. A suitable transition period was above all else, Bell insisted, the critical requirement for the United States.

> It's important to remember why we felt we needed a transition period. Point one is you can't turn a supertanker on a dime. We have been going in a certain direction with our defense posture for a long time... and we rely on mines, at least have up to now. And so to do something different, we needed to field alternatives to get a comparable military capability. And our best estimate was that meant about nine years.[74]

The U.S armed forces would also need, Bell pointed out, an adequate transition period to prepare for possible military action against states who would continue indefinitely to use land mines. A nine-year transition period that would start upon signature of the Convention in December, 1997, failed in the final analysis to win broad support. "Some states thought it was too long; others thought it was too unqualified; some states wanted to restrict it to various kinds of conflict. So we didn't have agreement on that."[75]

Bell reserved his most detailed comments to explain America's position on anti-tank mines. He pointed out that America's European allies had successfully secured an exemption in the Convention for their anti-tank mine systems. The U.S. design, which featured a number of small explosive devices physically attached by a series of trip wires to the anti-tank mine, was deemed unacceptable by the international community. Despite Washington's last-minute negotiating effort to include the words "or near" in order to exempt U.S. anti-tank mines, these "small explosive devices" were still regarded as land mines, and hence, rejected at Oslo. In the end, Bell concluded, the President could not "allow our principal anti-tank munitions to be stripped from our inventory."[76]

Reflecting on the outcome of the Oslo negotiations, Bell struck a conciliatory stance, suggesting that of America's five key demands, only two "sticking points" were not met - a suitable transition period, and an exemption for anti-tank mine systems. "We came close," Bell noted with a tinge of regret, "I would say three out of five." "And on the two where it didn't work out, there's no logical reason why it couldn't have." "And that's where we ended up."[77]

These dual "sticking points" were also emphasized by Secretary of Defense William Cohen. Calling the Ottawa Convention "well-intentioned but deficient," the secretary called into question the effectiveness of the agreement given "the fact that the largest producers and exporters of APL refused to participate in Oslo."[78] Cohen was decidedly blunt in suggesting that the Convention was irradicably marred for failing to recognize and incorporate American concerns.

> The Oslo agreement has two major flaws: [i]t fails to address the special requirements of U.S. - and United Nations - forces in Korea. For the United States to sign on risked a potentially catastrophic misreading of our commitment by North Korea's unpredictable leadership that could result in millions of casualties; [and], while intended to ban only antipersonnel land mines that are the cause of the humanitarian problem, the definitions in the Oslo text were carefully crafted such that other countries could retain their anti-tank mines - as they should - but effectively would ban U.S.anti-tank mines.[79]

In disclosing that the U.S. would not sign the Ottawa Treaty, President Clinton announced a series of accelerated national land mine elimination and global de-mining initiatives. First, he established a target date for eliminating the use of land mines by the United States. The Department of Defense was instructed to "develop alternatives to anti-personnel mines" by 2003, and in the case of Korea, by the year 2006. Additional research funding would be made available to accomplish this objective. Second, David Jones, former chairman of the Joint Chiefs of Staff, was appointed as special advisor on land mine issues to the president and Secretary of Defense Cohen. Third, a significant increase in U.S. funded and operated de-mining programs was set into motion. This element of the president's announcement involved several features, including an increase in the U.S. de-mining budget by 25%, an increase in the number of

participating countries (from 15 to 21) scheduled to receive de-mining assistance, an expansion in research and development to improve de-mining procedures and techniques, working to establish a regional de-mining training site in Africa, an attempt to double the number of foreign students to be trained at the Navy's Explosive Ordinance Disposal School, opening the Army Engineering School's training program to foreign de-miners, and a commitment to seek to establish a more sizable de-mining training program.[80]

The final initiative announced by the president, perhaps more than any other, reflected the twists and turns that had come to characterize U.S. land mine policy over the past year. "[W]e will redouble our efforts," President Clinton stated,

> to establish serious negotiations for a global anti-personnel land mine ban in the Conference on Disarmament in Geneva. We will begin by seeking an export ban next year, and one that applies to the major land mine producers, the people who themselves caused this problem because they're making and selling these land mines — none of them were present in Oslo — in the end, we have to get them on board, as well.[81]

Robert Bell reinforced the message of America's continued commitment to seeking a comprehensive land mine elimination solution through the CD. "We're going to go back to Geneva, not try to take it all in one bite now, we're going to take it in steps. So our first goal.. is to get all of those states... to agree to a global treaty banning land mines exports. Then at least you're stopping the supply.[82] In the final analysis, noted White House spokesman Michael McCurry, "the President is absolutely rock-solid confident he's got the right approach that protects our interests and works in the interest of eliminating the scourge of land mines."[83]

C. On The Sidelines

The final months of 1997 witnessed no fundamental shift in U.S. land mine policy. Determined to once again proceed with land mine elimination efforts at the Conference on Disarmament, the United States did not move, as some observers wishfully anticipated, to endorse the Ottawa Convention. The most notable development in U.S policy during this period was in the area of de-mining. On 31 October, Secretary of State Albright announced the "De-mining 2010" proposal, billed as "a major new United States initiative on a

subject of widespread concern."[84] Highlighted by the appointment of Karl Inderfurth to the new positions of Special Representative of the President and Secretary of State for Global Humanitarian De-mining, this program was established to rapidly facilitate global de-mining efforts, with an aim of achieving complete anti-personnel deployed mine elimination by 2010. Promising to double the budget of the U.S. Humanitarian De-mining Program from $40 million to $80 million in 1998 (with the potential for future budgetary increases), Secretary Inderfurth would aim

> to work in cooperation with other nations and organizations to coordinate and accelerate international de-mining efforts, and to increase by roughly a factor of five - to $1 billion a year - the public and private resources devoted worldwide to identifying and clearing mines, promoting public awareness about mines, and improving the means of detecting and removing mines.[85]

Additional features of the De-mining 2010 initiative included establishing an advisory panel to support the activities of the program, and convening an international conference in Washington "to develop specific strategies for achieving the goal of eliminating, by 2010, the threat to civilians posed by land mines already in the ground."[86]

The Ottawa Convention signatory conference of 2-4 December 1997, formally titled "A Global Ban on Land Mines: Treaty Signing Conference and Mine Action Forum," was attended by an American observer delegation headed by Secretary Inderfurth.[87] Amid the effusively celebratory atmosphere, Inderfurth noted that "Canada had done a remarkable and important thing in trying to get the countries of the world to agree not to produce, deploy or sell land mines." Nonetheless, he reminded conference attendees that

> the United States did not sign this treaty. This is because of President Clinton's concern for the safety and security of our men and women in uniform and the unique responsibilities the United States has around the world for the security of friends and allies, not for lack of dedication to our common goal of eliminating anti-personnel mines from the face of the earth.[88]

III. SAYING "NO" TO OTTAWA

The decision of the United States to forego signing the Ottawa

Convention can most identifiably be traced to the outcome of the Oslo Diplomatic Conference negotiations in September, 1997. Simply put, the original and reformulated American negotiation platforms were not broadly supported by a majority of states, thereby effectively removing any incentive for the U.S. to sign the Convention. Attempts to seek changes in the draft Convention to reflect U.S. national interests on several issues, including a satisfactory transition period for treaty compliance, conditions governing withdrawal from the treaty, and the continued use of antitank mines, proved unsuccessful.[89]

Aside from the immediate frustration experienced at Oslo, larger political and security considerations precluded the U.S. from backing the land mine ban Convention. President Clinton was keenly aware that the political prospects of Senate support for the agreement remained highly questionable. Any purported global arms elimination treaty that failed to include 1), rigorous, intrusive verification measures to ensure compliance; and 2), obvious land mine producers, stockpilers, and users such as Russia, China, Iran, Iraq, and North Korea, was more than likely to encounter stiff scrutiny, and ultimately, political interference in the Senate. The possibility of delay or defeat by the Senate Foreign Relations Committee was even more pronounced. Senator Jesse Helms, influential chairman of the Committee, was openly critical of the Convention. As an October, 1998, Senate Foreign Relations Committee report would later indicate,

> the majority of the members of the Committee commend the Administration for its refusal to sign the [Ottawa] Convention on the Prohibition of the Use, Production, Stockpiling, and Transfer of Anti-Personnel mines and on their Destruction...That Convention is not an effective worldwide APL ban.[90]

The Convention was further characterized as oversimplifying "a complex problem requiring a carefully-planned, comprehensive solution. The Convention served unique political purposes rather than humanitarian needs. It was negotiated without any serious consideration to security concerns."[91] In its sharpest rebuke of the Convention, the Senate Foreign Relations Committee report argued "that the Ottawa Convention is a poorly-conceived, poorly-drafted document which fails to take into account any of the security concerns of the United States or its closest allies."[92]

Most importantly, it was unlikely that the necessary 67 senators (a two-thirds majority) required for treaty ratification would vote to support the Convention.[93] The prospect of Congressional stalemate or even defeat was most decidedly not attractive to the president.[94] According to one U.S. official,

> put yourself in [President] Clinton's shoes. There was little to no appetite for American concerns in Oslo... The package that President Clinton would have presented to Congress would not have included the key ingredients we had sought in those negotiations... I seriously doubt that, under those circumstances, the Convention would have stood a chance.[95]

Security considerations that directly impacted on the president's decision to reject the Convention also abounded in Washington. The characterization - oft-repeated by critics, particularly within the NGO community, of U.S. land mine policy - that responsibility for U.S. failure to support the Convention can principally be traced to a weak president who simply chose to defer to the unrelenting demands of the Department of Defense is not supported by the evidence.[96]

Indeed, the Pentagon did have serious reservations about U.S. support for the Ottawa Convention. What were the central issues? First and least important - in terms of comparative ranking - was the issue of precedent. The Department of Defense, particularly the Army, was concerned that the elimination of land mines from the U.S. military arsenal would eventually lead to further international control and elimination agreements on weapons that were believed to be necessary in the successful planning and execution of military missions.[97] The push to eliminate land mines, therefore, was viewed as a potential slippery slope with far-ranging ramifications for American defense policy. The success of existing military commitments and future operations (i.e., measured by the total number of casualties incurred) was also a direct concern of the Department of Defense. From the perspective of the Pentagon, the inability to use land mines would not only complicate the planning and operation of military missions and place increase demands on alternate defense resources, but most importantly, also increase the probability of American battlefield deaths in various military theaters.[98]

Nowhere was this of more concern than on the Korean peninsula. The retention of approximately 1.22 million land mines was

viewed by the Pentagon as a necessary instrument to deter and, if necessary, defend South Korea against a possible North Korean military attack. In the absence of land mines and given the comparative advantage in North Korean troop strength (as against the combined forces of the U.S. and South Korea), it was firmly believed that in the event of a North Korean decision to use force, American combat losses would dramatically increase.[99] This outlook was compounded by the belief, in Korea and elsewhere, that no effective alternatives as yet had been constructed, tested, evaluated and integrated into the U.S. defense force structure. Given the range of applications for land mines, their elimination had the potential to compromise American military missions and result in an increase in casualties.[100]

Concerns held by the Department of Defense, particularly the determination not to increase the risk (in the absence of effective alternatives) to the lives of U.S. soldiers in existing or future military commitments, were repeatedly raised with President Clinton. U.S. signature of the Ottawa Convention would have required the U.S. to be land-mine free, the Pentagon insisted, long before necessary alternatives could be deployed. This would only result, it was argued, in unnecessarily exposing U.S. military forces to a greater degree of risk. Why not, therefore, postpone support for the Convention until credible alternatives to land mines were available. The crucial point to underscore is that these concerns were neither dictated to nor forced upon the president of the United States. In fact, President Clinton *shared* a sharp desire to avoid increasing the level of risk to U.S. forces and thus chose not to align the U.S. with the Convention in 1997.

IV. CONCLUSION

The United States, to date, is not a signatory to the Ottawa Convention. Significant steps, however, have been taken by Washington since December, 1997. Samuel Berger, Assistant to the President for National Security Affairs, confirmed in a 15 May 1998 letter to Senator Patrick Leahy that the U.S. is committed to the time frames established by President Clinton in September, 1997.[101] Specifically, Berger noted that "the United States will sign the Ottawa Convention by 2006 if we succeed in identifying and fielding suitable alternatives to our anti-personnel land mines and mixed anti-tank systems by then."[102] Implementation of this statement - the first political declaration that the U.S. would commit to the Ottawa Convention - is, of

course, dependent on finding satisfactory alternatives.[103] The timelines established by the president were officially set forth in Presidential Decision Directive No. 64 of 23 June 1998.

The commitment of the United States to the target date of 2006 and the concomitant search for alternatives to land mines has recently been brought into sharper focus with the election of George W. Bush as president. The ideological orientation and emerging direction of the Bush Administration's foreign policy provides, many observers note, little room for optimism on U.S. support for land mine elimination efforts. The United States has consistently demonstrated a willingness over the past several months to unilaterally press forward - to the chagrin of allies and in the face of significant international opposition - on foreign policy initiatives such as ballistic missile defense, while simultaneously rejecting complex multilateral negotiated agreements on such pressing issues as the nuclear test ban treaty, the establishment of an international criminal court, the revised Kyoto Protocol limiting emissions of greenhouse gases, and a pact designed to strengthen the 1972 treaty banning biological weapons.[104]

American policy toward North Korea, so often cited in the U.S. decision not to support the Ottawa Convention, has also stiffened, with the White House demanding - after initial exploratory discussions were held on 13 June 2001 in New York - that formal talks with North Korean officials encompass a wide range of topics, including Pyongyang's production, deployment and export of missiles, the deployment of forces on the border with South Korea, and inspection rights to determine if North Korea has secretly stored weapons-grade plutonium.[105] At no point in the recent engagement with North Korea has the subject of land mine removal or elimination from the Korean peninsula been raised.

U.S. land mine policy has, however, begun to receive attention as a result of the recently launched 2001 Quadrennial Defense Review, a top-to-bottom analysis of American military strategy, forces, missions, weapons systems and budgets.[106] This review, required by Congress every four years and scheduled to be completed by 30 September 2001, includes an examination by the Department of Defense, Department of State and the National Security Council of existing land mine policy and new policy recommendations. Some observers are genuinely concerned that the Pentagon, which concluded its examination in July, has taken the position that the U.S.

need no longer aim for the target date of 2006 established by former President Clinton, nor place a high priority on developing suitable alternatives to landmines.[107]

It is simply premature to determine the results of this latest interagency review of US land mine policy. The predilections of American foreign policy, as formulated and implemented to date under the new Bush presidency, leave one, however, less than enthusiastic on the subject of land mine elimination and America's future support for the Ottawa Convention.

ACRONYMS

ACDA	U.S. Arms Control and Disarmament Agency
AP, APL	anti-personnel (land mines)
CCW	Convention on Conventional Weapons
CD	Conference on Disarmament
DFAIT	Canada Department of Foreign Affairs and International Trade
DND	Canada Department of National Defense
DOD	U.S. Department of Defense
ICBL	International Campaign to Ban Land Mines
ICRC	International Committee of the Red Cross
NGOs	non-governmental organizations
NSC	U.S. National Security Council
UN	United Nations

NOTES

[1] William J. Clinton, "Remarks to the 49th Session of the United Nations General Assembly in New York City," *Public Papers of the Presidents of the United States* 1994 Book II(Washington: United States Government Printing Office, 1995): 1629.

[2] Statement by William Jefferson Clinton, "Remarks by the President on Land Mines," White House, The Roosevelt Room, 17 September 1997. For a transcript of the briefing, see William J. Clinton, "Remarks on International Efforts to Eliminate Landmines and an Exchange with Reporters," *Public Papers of the Presidents of the United States* 1997 Book II (Washington: United States Government Printing Office, 1999): 1183-1186. Alternatively, see http://www.pub.whitehouse.gov/whit...esident-remarks-on-land-mines.text. For the published, albeit much abbreviated version of Mr. Clinton's comments, see "Remarks by the President, September 17, 1997," *Foreign Policy Bulletin* 8 (November/December 1997): 6-8.

[3] The Ottawa Process, covering the period October 1996-December 1997, involved states, international organizations and nongovernmental organizations collectively working to draft, negotiate and finalize an international landmine elimination accord - i.e., the Ottawa Convention. The Ottawa Process, Don Hubert correctly points out, featured "a series of meetings and conferences to prepare and consult on the text of the treaty and an intense schedule of conferences, consultations, lobbying, and campaigning to build political support for a comprehensive ban." Don Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy* (Providence: Thomas J. Watson Jr. Institute for International Studies, Brown University, 2000): 21.

[4] The full title of the CCW, which was convened in 1977, is 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. For a copy of the Convention, see *International Legal Materials* 19 (1980): 1523-1536. The CCW, which entered into force on 2 December 1983, was signed by the United States on 8 April 1982, submitted to the Senate on May 12, 1994, given advice and consent by the Senate and ratified by the U.S. on 24 March 1995, and entered into force for the United States on 24

September 1995. For a brief discussion of international events leading up to the CCW, see Jack McCall Jr., "Infernal Machines and Hidden Death: International Law and Limits on the Indiscriminate Use of Land Mine Warfare," *Georgia Journal of International and Comparative Law* 24, 2 (1994): 237. It should also be recognized that the 12 August 1949 Diplomatic Conference for the Establishment of International Conventions for the Protection of War Victims and the 1974-1977 United Nations Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflict: Protocols I and II to the Geneva Conventions were distinguished for the recognition and treatment of civilians. For a brief overview of these developments see, Paul J. Lightfoot, "The Landmine Review Conference: Will the Revised Landmine Protocol Protect Civilians?," *Fordham International Law Journal* 18 (1995): 1537-1539, and Peter J. Ekberg, "Remotely Delivered Landmines and International Law," *Columbia Journal of Transnational Law* 33, 1 (1995): 159-163.

[5] The humanitarian toll of increased land mine use was most evident to public health professionals working in developing states; states which, in many cases, were experiencing internal conflict. On the experience of the International Committee of the Red Cross, see Stuart Maslen, "The Role of the International Committee of the Red Cross," in Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds., *To Walk Without Fear: The Global Movement to Ban Landmines* (Toronto: Oxford University Press): 84-85.

[6] See Boutros Boutros-Ghali, "The Land Mine Crisis: A Humanitarian Disaster," *Foreign Affairs* 73, 5 (September/October 1994): 12; Frank Faulkner, "Anti-Personnel Landmines: A Necessary Evil?," *International Relations* 13, 4 (April 1997): 52-53; McCall Jr., "Infernal Machines and Hidden Death: International Law and Limits on the Indiscriminate Use of Land Mine Warfare," 260-266; and, Lightfoot, "The Landmine Review Conference: Will the Revised Landmine Protocol Protect Civilians?," 1558-1560.

[7] According to Article 8 of the CCW, any signatory state could request that a review conference be held ten years from the date of the Convention's entry into force. France requested the U.N. Secretary-General, in December 1993, to convene a review of the CCW, "stress[ing] the importance of amending the Landmines Protocol to

strengthen its provisions." Janet E. Lord, "Legal Restraints in the Use of Landmines: Humanitarian and Environmental Crisis," *California Western International Law Journal* 25 (1995): 342. The French request, according to Don Hubert, "had its origins in a lobbying campaign by Handicap International (HI) and particularly its director, Philippe Chabasse." Despite "opposition from the French Defense Ministry" Hubert notes, "in February 1993 at a symposium on landmines cosponsored by HI, the French government indicated that it would formally request a review of the 1980 Convention." Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy*, 12. Preparations for the conference commenced on 28 February 1994, with four experts meetings held in Geneva. Faulkner, "Anti-Personnel Landmines: A Necessary Evil?," 52-53, and Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy*, 13. According to one source, the United States abstained from voting in favor of the U.N. Resolution to hold a review conference, "because it objected to an amendment asking the Conference to discuss all aspects of the landmine crisis, including a total ban." Lightfoot, "The Landmine Review Conference: Will the Revised Landmine Protocol Protect Civilians?," 1544. One example of suggested revisions to Protocol II is contained in McCall Jr., "Infernal Machines and Hidden Death: International Law and Limits on the Indiscriminate Use of Land Mine Warfare," 271-276. It should further be noted that prior to reconvening the review conference, a small number of actors had individually taken various steps toward greater landmine regulation or elimination. The United States, under the congressional leadership of Senator Patrick Leahy and Representative Lane Evans, had in October, 1992, instituted a one year moratorium on the sale, transfer and export of land mines. Europe was particularly active in this arena notes Don Hubert: "The European Union also undertook early action to address the proliferation of landmines by passing a resolution in December 1992 requesting a five-year moratorium on the export of antipersonnel mines. In further high-profile steps, the Swedish Parliament called for a complete ban in June 1994 and, in November of that year, the Netherlands undertook to destroy its entire stockpile of mines. Belgium passed legislation in May 1995 banning the use, production, procurement, sale, and transfer of antipersonnel mines." Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy*, 12.

[8] According to one careful study, the revised Protocol represented "a wider application of the regulations regarding landmines, restrictions on transfers, requirements for landmine detectability, inclusion of consultation and compliance procedures, greater protection for humanitarian workers, including humanitarian de-miners, provisions explaining who should be responsible for mine clearance, and a specific date for the next review conference." Ann Peters, "Landmines in the 21st Century," *International Relations* 13, 2 (August 1996): 44. For a copy of the revised Protocol, see *International Legal Materials* 35 (1996): 1209-1217. The new Protocol did not, however, regulate the production, sale and possession of land mines, contain strong verification and monitoring measures, nor designate responsibility for demining activities. The International Campaign to Ban Landmines (ICBL), at the forefront of this collective atmosphere of disappointment, sharply criticized the Protocol. See Stephen D. Goose, "CCW States Fail to Stem Crisis; U.S. Policy Now an Obstacle," *Arms Control Today* (July 1996): 9, 14-17, and International Campaign to Ban Landmines, *CCW News* 12 (3 May 1996). At this point, the ICBL was a coalition of some 650 NGOs in 40 countries. A general critique of the Revised Protocol is found in Lightfoot, "The Landmine Review Conference: Will the Revised Landmine Protocol Protect Civilians?," 1560-1561. The Revised Protocol entered into force on 3 December 1998.

[9] Robert Lawson, "The Ottawa Process: Fast-Track Diplomacy and the International Movement to Ban Anti-Personnel Mines," in Fen Osler Hampson and Maureen Appel Molot, eds., *Canada Among Nations: Leadership and Dialogue* (Toronto: Oxford University Press, 1998): 84. This initiative was, according to one source, "arranged by the ICBL." Goose, "CCW States Fail to Stem Crisis; U.S. Policy Now an Obstacle," 15. In November 1995, the ICRC initiated "an international campaign calling for a total, immediate and definitive ban on landmines." Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy*, 14.

[10] The pivotal role of NGOs in initiating and sustaining public and political momentum for a total AP mine ban is widely acknowledged by observers. Two formative benchmark events are usually cited: the 1991 decision of the Vietnam Veterans of America Foundation (VVAF) and Medico International to launch a coordinated NGO advocacy

campaign, and the 1992 creation of the ICBL - originally comprised of the VVAF, Medico International, Handicap International, Human Rights Watch, the Mine Advisory Group, and Physicians for Human Rights. For the fullest statement on NGO mine elimination advocacy, and the important role played by the ICBL, see Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy*, 7-10.

[11] A key focus of the U.S. delegation at the CCW Review Conference talks was to revise Protocol II to eliminate "dumb" land mines (i.e., land mines which would stay armed indefinitely) but to sanction the use of "smart" land mines (i.e., land mines which self-destruct after a set period or self-deactivate). The U.S. negotiating position at the Review Conference is outlined in Michael J. Matheson, "Current Development: The Revision of the Mines Protocol," *American Journal of International Law* 91 (January 1997). U.S. officials identified China as the chief stumbling block at the Review Conference. See the frank comments of U.S. Deputy Chief negotiator, Robert Sherman, of the Arms Control and Disarmament Agency in John Mintz, "U.S. Aides See China Impeding Pact on Restricting Land Mines," *The Washington Post* (22 March 1996): A31. Washington's official position underscored the positive features of the newly revised Protocol II. See, for example, the statements of Michael J. Matheson, legal adviser at the Department of State and U.S. Head of "New Landmine Protocol Is Vital Step Toward Ban Delegation at the CCW Review Conference, "Current Development: The Revision of the Mines Protocol," and "Current Development: The Revision of the Mines Protocol," *Arms Control Today* (July 1996): 9-13. According to Matheson, "There are ground-breaking achievements in the revised land mine protocol to the 1980 Convention on Conventional Weapons [CCW]... What was achieved at the conference is undoubtedly less categorical than a total ban, but, as an interim step toward a global ban, undoubtedly more effective in reducing civilian casualties than a ban that lacked essential international support." "Current Development: The Revision of the Mines Protocol," 9,10. Original emphasis. Matheson, however, also underscored the serious disagreement between CCW participants: "There was a widespread belief - strongly shared by the United States - that the Mines Protocol needed to be strengthened to deal with the catastrophe caused by the extensive and indiscriminate use of APL in the preceding decades, but considerable disagreement as to what the solution should be. Some states supported a total

prohibition on the use of APL, but this was never a serious negotiating option at the Review Conference and none of its sponsors believed there was any likelihood of its adoption. The major military powers and many lesser ones maintain extensive inventories of APL, and several - including Russia, China, India, and Pakistan - refused even to consider a total ban..." Matheson, "Current Development: The Revision of the Mines Protocol."

[12] Raymond Bonner, "Pentagon Weighs Ending Opposition To A Ban On Mines," *The New York Times* (17 March 1996): 1,16.

[13] See, for example, Neil A. Lewis, "U.S. Has Plan to Ban Land Mines, but Not Yet," *The New York Times* (18 April 1996): A11, Bradley Graham, "Pentagon Prepared to Forgo Most Land Mine Use Except in Korea, Persian Gulf," *The Washington Post* (19 April 1996): 26, Philip Shenon, "Clinton Reported Close to a Limited Ban on Land Mines," *The New York Times* (7 May 1996): A10, and Philip Shenon, "Joint Chiefs Weaken Proposal for Land-Mine Moratorium," *The New York Times* (11 May 1996): A4.

[14] Philip Shenon, "Clinton to Act on Banning Many Types Of War Mines," *The New York Times* (16 May 1996): A12, and John J. Fialka, "Clinton Pledges To Lead a Drive For Land-Mine Ban," *The Wall Street Journal* (17 May 1996): A8. The ICBL, disappointed with the President's decision, noted "it was not clear how this announcement differed in substance from his September 1994 UN speech endorsing the "eventual elimination" of anti-personnel mines... In reality, however, there is nothing of significance in the new statement... Rather than being a bold step forward, Clinton's announcement further indicates that the United States is out of touch with the rapidly growing momentum of the international movement to ban mines." Goose, "CCW States Fail to Stem Crisis; U.S. Policy Now an Obstacle," 15,16.

[15] Shenon, "Joint Chiefs Weaken Proposal for Land-Mine Moratorium."

[16] Confidential interview.

[17] Confidential interview.

[18] Mary Wareham, "Rhetoric and Policy Realities in the United States," in *To Walk Without Fear: The Global Movement to Ban Landmines* 226-227.

[19] Murray Campbell, "U.S. shuns deadline for ban on mines," *The Globe and Mail* (5 October 1996): A11.

[20] Craig Turner, "70 Nations Meet to Consider Ban on Land Mines," *Los Angeles Times* (5 October 1996): A6. President Clinton's insistence on a global ban was underscored in a speech before the 51st Session of the U.N. general Assembly. Speaking on 24 September, the President renewed his "appeal for the swift negotiation of a world-wide ban on the use, stockpiling, production, and transfer of anti-personnel land mines." William J. Clinton, *Public Papers of the Presidents of the United States* 1996 Book II (Washington: United States Government Printing Office, 1998): 1649.

[21] Emphasis added. 74 states attended the conference - 50 as full participants and 24 in the capacity of observers.

[22] Confidential interview. Emphasis added.

[23] Craig Turner, "Canada to Sponsor Global Ban on Land Mines by 2000," *Los Angeles Times* (6 October 1996): A6, Murray Campbell, "Axworthy sets land-mine treaty date," *The Globe and Mail*, (7 October 1996): A8, and for the most definitive account, see Brian W. Tomlin, "On a Fast Track to a Ban: The Canadian Policy Process," in *To Walk Without Fear: The Global Movement to Ban Landmines* 200-206. Mr Axworthy's statement, in part, read: "The challenge is to see a treaty signed no later than the end of 1997. In the coming days, I will be writing to your ministers and to others not represented here to seek their views on how we can move ahead together. I will tell them that if the will is there, Canada is prepared to convene a meeting in December 1997 to sign such a treaty." Reprinted as Appendix One, in David A. Lenarcic, *Knight-Errant? Canada and the Crusade to Ban Anti-Personnel Land Mines* (Concord, ON: Irwin Publishing, 1998): 96-98. Indeed, a draft treaty had been put together by Austria in preparation for circulation at the Ottawa Conference.

[24] Interview with Mr. Lysyshyn.

[25] Ibid.

[26] Confidential interview.

[27] Confidential interview.

[28] Campbell, "Axworthy sets land-mine treaty date," and Turner, "Canada to Sponsor Global Ban on Land Mines by 2000."

[29] Wareham, "Rhetoric and Policy Realities in the United States," 227.

[30] Confidential interview.

[31] According to one study, the CD venue also contained two other possible attractive features: "the legitimacy conferred by working through established UN channels, and the CD's recent successes on chemical weapons and nuclear testing." Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy* 19.

[32] Robert J. Lawson, Mark Gwozdecky, Jill Sinclair and Ralph Lysyshyn, "The Ottawa Process and the International Movement to Ban Anti-Personnel Mines, " in *To Walk Without Fear: The Global Movement to Ban Landmines,* 169. Emphasis added. The resolution was introduced by Secretary of State Madeline Albright on 4 November 1996. This position was reiterated by Thomas McNamara in a 2 December 1996 address to the Innovative Techniques for Landmine Neutralization and Removal Conference in Washington. See Thomas E. McNamara, "The U.S. Role in Solving the World landmine Problem," *United States Department of State Dispatch* 7, 49 (2 December 1996): 594-596. One hundred fifty-six states voted in favor of the resolution on 10 December 1996. No states opposed the resolution, and 10 states abstained (Belarus, China, Cuba, Israel, North Korea, Pakistan, Russia, South Korea, Syria and Turkey). Furthermore, on 7 January 1997, President Clinton transmitted to the U.S. Senate for advice and consent to ratification the amended Protocol II of the CCW.

[33] Clifford Krauss, "White House Picks a Slow Path To World Ban on Land Mines," *The New York Times* (18 January 1997): A2, and Dana Priest, "White House to Take U.N. Route Toward Global Land Mine Ban," *The Washington Post* (18 January 1997): A2. The President also announced a permanent U.S. export moratorium on anti-personnel mines.

[34] Confidential interview.

[35] Priest, "White House to Take U.N. Route Toward Global Land Mine Ban." Asked to comment at a later date on why the U.S. had chosen not to first pursue the Ottawa Process, Bell stated: "Now, what if we'd gotten in sooner? You have to ask why weren't we in sooner... Because we didn't think that the Ottawa process was going to be a global solution." Statement by Robert Bell, Press Briefing, White House Briefing Room, 17 September 1997. For a transcript of the briefing, see http://www.pub.whitehouse.gov/whit...-press-briefing-on-land-mines.text. For the published, albeit much abbreviated version of Mr. Bell's comments, see "Press Briefing by NSC Senior Director Bell, September 17, 1997," *Foreign Policy Bulletin* 8 (November/December 1997): 8-9.

[36] Lenarcic, *Knight-Errant? Canada and the Crusade to Ban Anti-Personnel Land Mines* 23.

[37] For a brief review of differing national agendas represented at the Conference on Disarmament, see Rebecca Johnson, "Multilateral Arms Control: Can the CD Break the Impasse," *Arms Control Today* 27 (November/December 1997): 17-21.

[38] Craig Turner, "U.S.-Led Push for Land Mine Ban Stymied," *Los Angeles Times* (7 March 1997): A14.

[39] Statement by The Honorable John D. Holum, Director U.S. Arms Control and Disarmament Agency, before the Conference on Disarmament, Geneva, Switzerland, 15 May 1997. For a transcript of Holum's speech, see www.acda.gov/speeches/holum/geneva.html.

[40] Ibid.

[41] Statement given on a United Nations convened panel discussion, "Banning Anti-Personnel Land Mines: The Ottawa Process and Beyond," 21 October 1997.

[42] Statement by Bell, Press Briefing, White House Briefing Room, 17 September 1997. The sole positive land mine elimination development - albeit a very minor one - at the CD came on 26 June with the appointment of Australian Ambassador John Campbell as special coordinator charged with the responsibility of developing a mandate

for negotiations. According to David Lenarcic, the initial - albeit unsuccessful - push for a special coordinator was made in late March in a proposal put forward by Finland, Chile and Poland. Lenarcic, *Knight-Errant? Canada and the Crusade to Ban Anti-Personnel Land Mines,* 24.

[43] U.S. officials believed that when the CD would, as scheduled, reconvene in July, there was practically no chance of movement on the landmine elimination issue.

[44] Confidential interview.

[45] Ibid.

[46] This paper only highlights the major Ottawa Process meetings. For a detailed description of these efforts, see Lawson, Gwozdecky, Sinclair and Lysyshyn, "The Ottawa Process and the International Movement to Ban Anti-Personnel Mines," 167-175, and Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy,* 20-24.

[47] Canada had indeed encouraged the United States, in March, 1997, to commit its energies to the Ottawa Process. This resulted in a mid-June meeting in Ottawa between U.S. and Canadian officials to discuss the Ottawa Process draft treaty and American AP mine policy. The U.S., not yet having undergone the necessary interagency review process, was unprepared at this time to commit to the Canadian sponsored forum. Maxwell A. Cameron, "Democratization of Foreign Policy: The Ottawa Process as a Model," in*To Walk Without Fear: The Global Movement to Ban Landmines* 438, Lawson, Gwozdecky, Sinclair and Lysyshyn, "The Ottawa Process and the International Movement to Ban Anti-Personnel Mines," 175, "The Battle To Ban Land Mines," *Maclean's* (1 July 1997), and Paul Koring, "Behind the scenes of Canada's quiet land-mine diplomacy," *The Globe and Mail* (19 September 1997): A8.

[48] White House spokesman Barry Toiv underscored that "co-operation in the Conference on Disarmament on new steps in this area remains essential since that body's membership includes most of the major producers and exporters of antipersonnel land mines." "U.S. to support land-mine initiative," *The Globe and Mail* (19 August 1997): A1, A10.

[49] James Bennet, "U.S. Agrees To Join Talks On Banning Some Mines," *The New York Times* (19 August 1997): A8.

[50] "U.S. to support land-mine initiative."

[51] Confidential interview. As one commentator bluntly observed, "[t]he administrations negotiators still showed up in a last-ditch effort to gain certain loopholes." Kenneth Roth, "Sidelined on Human Rights: America Bows Out," *Foreign Affairs* 77, 2 (March/April 1998): 6.

[52] Captain Doubleday, U.S. Navy, Department of Defense News Briefing, 19 August 1997. For a transcript of the briefing, see www.defenselink.mil/news/Aug1997/t08191997_t0819asd.html.

[53] Lawson, Gwozdecky, Sinclair and Lysyshyn, "The Ottawa Process and the International Movement to Ban Anti-Personnel Mines," 177, and "U.S. to support land-mine initiative." Approximately 30-40 bilateral sessions were held between U.S. representatives and other states in Geneva.

[54] Confidential interview.

[55] Confidential interview.

[56] Lawson, Gwozdecky, Sinclair and Lysyshyn, "The Ottawa Process and the International Movement to Ban Anti-Personnel Mines," 177.

[57] It should be noted that Washington's negotiation platform was decidedly broader than the five issues listed here. The five positions, outlined in this essay, formed the substantive core of the U.S. platform.

[58] "U.S. Is Alone in Seeking Loophole in Ban on Mines," *The New York Times* (4 September 1997): A10.

[59] Raymond Bonner, "Other Nations call New U.S. Terms for Mine Ban Unacceptable," *The New York Times* (16 September 1997): A11.

[60] Raymond Bonner, "U.S. Seeks Compromise to Save Treaty Banning Land Mines," *The New York Times* (17 September 1997): A6, and Hubert, *The Landmine Ban: A Case Study in Humanitarian Advocacy*, 26.

[61] "Excerpt from Department of State Daily Press Briefing by Deputy Spokesman Foley, September 15, 1997," *Foreign Policy Bulletin* 8 (November/December 1997): 4.

[62] Ibid.

[63] Ibid.

[64] "U.S. Seeks Compromise to Save Treaty Banning Land Mines," and Jeff Sallot, "Chretien hopeful U.S. will sign land-mine treaty," *The Globe and Mail* (17 September 1997): A1, A8.

[65] "Excerpt from Department of State Press Briefing by Deputy Spokesman Foley, September 16, 1997," *Foreign Policy Bulletin* 8 (November/December 1997): 5. Emphasis added.

[66] Steven Lee Myers, "Clinton Says Ban on Mines Would Put U.S. Troops at Risk," *The New York Times* (18 September 1997): A8, and Dana Priest and Charles Trueheart, "89 Nations Back Land Mine Pact Without U.S.," *The Washington Post* (18 September 1997): A1, A28.

[67] "Clinton Says Ban on Mines Would Put U.S. Troops at Risk."

[68] "89 Nations Back Land Mine Pact Without U.S.."

[69] "Clinton Says Ban on Mines Would Put U.S. Troops at Risk." One vociferous critic of U.S. land mine policy, Jody Williams (Coordinator of the ICBL and soon to be announced as the co-recipient of the 1997 Nobel Peace Prize), offered this perspective on U.S. participation at Oslo: "the U.S. did not come in good faith. They came to bend the will of the world to accommodate existing U.S. policy." Statement given on a United Nations convened panel discussion, "Banning Anti-Personnel Land Mines: The Ottawa Process and Beyond," 21 October 1997.

[70] Clinton, "Remarks on International Efforts to Eliminate Landmines and an Exchange with Reporters," 1183.

[71] Ibid, 1183,1184. In a 23 November 1997 press conference, President Clinton - flanked by Canadian Prime Minister Jean Chretien - explained the reluctance of the U.S. to support the Ottawa Convention in these terms: "This is a question of how that treaty was worded and

the unwillingness of some people to entertain any change in the wording of it." Peter Baker, "A Dispute Between Neighbors," *The Washington Post* (24 November 1997): A20.

[72] Statement by Bell, Press Briefing, White House Briefing Room, 17 September 1997.

[73] Ibid.

[74] Ibid.

[75] Ibid.

[76] Ibid.

[77] Ibid.

[78] William S. Cohen, "Necessary and Right," *The Washington Post* (19 September 1997): A23.

[79] Ibid.

[80] Statement by Clinton, "Remarks on International Efforts to Eliminate Landmines and an Exchange with Reporters," "Necessary and Right," Statement by Secretary of Defense William S. Cohen, Office of Assistant Secretary of Defense (Public Affairs) News Release, 17 September 1997 (see www.defenselink.mil/news/Sep1997/b09171997_bt494-97.html), and The White House, Office of the Press Secretary, "Fact Sheet: U.S. Efforts to Address the Problem of Anti-Personnel Mines," 17 September 1997 (see www.pub.whitehouse.gov/whit...97-09-17-landmine-fact-sheets.text).

[81] Statement by Clinton, "Remarks on International Efforts to Eliminate Landmines and an Exchange with Reporters," 1184.

[82] Statement by Bell, Press Briefing, White House Briefing Room, 17 September 1997.

[83] Philip Shenon, "Clinton Still Firmly Against Land-Mine Treaty," *The New York Times* (11 October 1997): A6.

[84] Secretary of State Madeleine K. Albright and Secretary of Defense William S. Cohen, Press Briefing on Land Mine Policy, 31 October

1997. For a transcript of the statement, see http://secretary.state.gov/www/statements/971031a.html. Also see "U.S. Plans a Fund To Clear Land Mines," *The New York Times* (1 November 1997): A7.

[85] Albright and Cohen, Press Briefing on Land Mine Policy.

[86] Ibid.

[87] On the signing of the Convention, see Jeff Sallot, "Superpowers on sidelines at signing of land-mines treaty," *The Globe and Mail* (2 December 1997): A9, Jeff Sallot and Murray Campbell, "Give treaty holdouts time, UN says," *The Globe and mail* (3 December 1997): A4, Colin Nickerson, "Activist Canada has a victory with ban on land mines," *The Boston Globe* (3 December 1997): A2, Jeff Sallot and Murray Campbell, "Canada basks in praise at antimine conference," *The Globe and mail* (4 December 1997): A5, Murray Campbell, "few loopholes in historic treaty," *The Globe and Mail* (4 December 1997): A5, Anthony DePalma, "As U.S. Looks On, 120 Nations Sign Treaty Banning Land Mines," *The New York Times* (4 December 1997): A1, A14, Howard Schneider, "Dozens of Nations, But Not U.S., Sign Land-Mine Treaty," *The Washington Post* (4 December 1997): A33, A35, and Jeff Sallot and Murray Campbell, "121 nations sign mine-ban treaty," *The Globe and Mail* (5 December 1997): A4. For a detailed analysis of the Ottawa Convention, see Korinna M. Georghiades, "The Ottawa Convention: Meeting the Challenge of Anti-Personnel Mines," *International Relations* XIV 4 (December 1998): 54-65.

[88] Statement by Ambassador Karl F. Inderfurth, Special Representative to the President and Secretary of State fro Global Humanitarian Demining, Ottawa, 4 December 1997. For a transcript of the statement, see http://www.mines.gc.ca/XUS_b.html.

[89] The belated decision of America - 18 August 1997 - to formally participate in the Ottawa Process clearly also served to handicap U.S. negotiators in Oslo. The draft Convention at the Oslo Diplomatic Conference was the result of an intense, coordinated process by a partnership of committed pro-land mine ban participants who had, for several months, collectively worked toward this goal - a process that had not included the United States. As such, the willingness of pro-ban states - to say nothing of nongovernmental organizations - to consider significant American modifications to the draft Convention

at this late stage was marginal. Indeed, U.S. participation at Oslo generated considerable resentment and suspicion among many actors, particularly the NGO community. The U.S. during this period, had in effect, marginalized itself, preferring instead to seek AP mine elimination through the Conference on Disarmament.

[90] United States. Senate. *Amended Mines Protocol* Report of the Committee on Foreign Relations, 105th Congress, 2nd Session (10 October 1998): 13.

[91] *Ibid.*

[92] Ibid.

[93] Fifty-seven Senators did, however, support legislation (S896) in June 2000 (this number peaked at 60 in early August) - cosponsored by Vermont Democrat Patrick Leahy and Nebraska Republican Chuck Hagel - to effectively ban deployment of antipersonnel mines beginning in 2000. Pat Towell, "57 Senators Pressure Clinton To Ban Anti-Personnel Mines," *Congressional Quarterly Weekly Report* (14 June 1997): 1389. Yet as Beth Fischer points out, that level of senatorial support may well have eroded if the Ottawa Convention was presented to the full Senate for advice and consent: "The Ottawa Convention differed from this bill [i.e., S896] in two important respects: it did not provide an exemption for Korea, and it rendered illegal the APM [antipersonnel mines] that were packaged together with anti-tank mines in U.S. "mixed munitions" systems." Beth A. Fischer, "The United States and the Ottawa Process," *Canadian Foreign Policy* 5, 3 (Spring 1998): 59. This being said, 60 obviously does not equal the required figure of 67.

[94] Recent remarks by President Clinton confirm this view. "The way it came up to Congress, there was no way [i.e., that the Senate would have ratified the Convention]." Hilary Mackenzie, *The Ottawa Citizen* (1 December 2000): A1.

[95] Confidential interview.

[96] A recent example of this opinion can be found in *The Boston Globe*. In an article titled "U.S. should sign treaty banning land mines," Susannah Sirkin (deputy director of Physicians for Human Rights) and Gina Coplon-Newfield (associate coordinator of the United

States Campaign to Ban Landmines) argue that since 1997 the Clinton administration had deferred to the Pentagon and "has put the future of U.S. accession to the treaty in the hands of the Joint Chiefs of Staff." Susannah Sirkin and Gina Coplon-Newfield, "U.S. should sign treaty banning land mines," *The Boston Globe* (11 August 2000): A23. Indeed, given the compelling political and security realities confronting the U.S. on this issue it is unlikely that any other individual occupying the office of the president would have made a different choice. On this point, see Stephen M. Walt, "Two Cheers for Clinton's Foreign Policy," *Foreign Affairs* 79, 2 (March/April 2000): 78.

[97] For a brief but revealing review of the use of land mines by the Joint Special Operations Task Force during the Persian Gulf war, see Major General Jarvis D. Lynch Jr., "Landmines, Lies and Other Phenomena," *U.S. Naval Institute Proceedings*, 124 (May 1998): 47.

[98] According to estimates provided by the Department of Defense and quoted in the October, 1998, Senate Foreign Relations Committee report, "U.S. casualties would increase by 15 percent during the initial phase of a conflict in the Persian Gulf region if land mines were banned with no credible, alternative technologies. United States casualty rates could reach as high as 30 percent in a North East Asian contingency, and 35 percent in various European theaters." *Amended Mines Protocol* 10.

[99] The local, regional and global threat posed by North Korea - principally measured by its capabilities, intentions and geographic proximity - has long been recognized and detailed by U.S. government officials. The assessment of North Korea as a distinct threat *predates* the movement to ban land mines. Claims, therefore, that concerns over Korea were conveniently fabricated by the Department of Defense to convince President Clinton to oppose the Ottawa Convention are not only inaccurate, but patently false. For testimony for Department of Defense, Department of State, and intelligence community officials on the nature of the North Korean threat, see various testimony, throughout the 1990s, given before the House Committee on International Relations, the Senate Committee on Armed Services, and the Senate Committee on Foreign Relations.

[100] This viewpoint was clearly expressed by General John H. Tilelli, Commander-in-Chief, United Nations Command/Combined Forces

Command, and Commander of United States Forces Korea, in testimony given before the Senate Committee on Armed Services in March 1998. "An important part of my ability to meet the [North Korean] threat," Tilelli insisted "is the capability that I now have with antitank and antipersonnel landmines. I need these weapons in Korea both for deterrence and if I have to fight... If I am forced to fight without these technologically advanced weapons, CFC [Combined Forces Command] will require significant additional force structure to offset the lost capability and we will take additional casualties. I sincerely hope that I will not be prematurely deprived of this vital capability before alternatives can be fielded." United States Senate, Committee on Armed Services, *Department of Defense Authorization for Appropriations for Fiscal Year 1999 and the Future Years Defense Program* (3 March 1998): 428. Consider, also, the opinion of the Senate Foreign Relations Committee: "If the United States were to deny this capability to its commanders in the field, the majority of the Committee believes the United States would needlessly be placing at risk the lives of its young soldiers, and would be jeopardizing the ability of the United States Armed Forces to accomplish its assigned missions." *Amended Mines Protocol* 8.

[101] Letter from Samuel Berger to Patrick Leahy, 15 May 1998

[102] Berger letter, (15 May 1998): 2. Also see Steven Lee Meyers, "Clinton Agrees to Land-Mine Ban, but Not Yet," *The New York Times* (22 May 1998): A3.

[103] The search for land mine alternatives is chronicled in *Landmine Monitor Report 2000: Toward a Mine-Free World* (United States: International Campaign to Ban Landmines, August 2000): 335-340. According to the Monitor - an initiative of the ICBL designed to "monitor implementation and compliance with the 1997 Mine Ban Treaty, and more generally to assess the effects of the international community to resolve the landmines crisis" - this search has to date been less than successful.

[104] See, for example, Michael R. Gordon, "Pushing Agenda for ABM's, Bush Prepares to Meet Putin," *The New York Times* (19 July 2001): A1, A12, Andrew Revkin, "178 Nations Reach a Climate Accord; U.S. Only Looks On," *The New York Times* (24 July 2001): A1, A7, Andrew C. Revkin, "White House In No Hurry With Options To Kyoto Pact,"

The New York Times (25 July 2001): A11, and Elizabeth Olson, "U.S. Rejects New Accord Covering Germ Warfare," *The New York Times*: (26 July 2001): A5. Richard Haass, Director of Policy Planning at the State Department, characterizes the Bush administration approach to foreign policy as "a la carte multilateralism." Thom Shanker, "White House says the U.S. Is Not a Loner, Just Choosy," *The New York Times*, (31 July 2001): A1, A10.

[105] Jane Perlez, "U.S. Will Restart Wide Negotiations With North Korea," *The New York Times* (7 June 2001): A1, Jane Perlez, "American and North Korean Diplomats Talk," *The New York Times* (14 June 2001): A10, Michael R. Gordon, "U.S. Toughens Terms for North Korea Talks," *The New York Times* (3 July 2001): A9, and Jane Perlez, "Powell Says U.S. Wants to Resume Talks With North Korea," *The New York Times* (28 July 2001): A4.

[106] Thom Shanker, "Rumsfeld Sees Discord on Size of Military," *The New York Times* (19 July 2001): A16.

[107] Confidential interviews.