

MEETING OF THE STATES PARTIES TO 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

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SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 24 November 2005, at 3.20 p.m.

Chairperson: Mr. MARKOTIĆ (Croatia)

CONTENTS

CONSIDERATION OF THE REPORT OF THE WORK OF THE GROUP OF  
GOVERNMENTAL EXPERTS AND GENERAL EXCHANGE OF VIEWS (continued)

THIRD REVIEW CONFERENCE OF THE STATES PARTIES TO THE CONVENTION ON  
PROHIBITIONS OR RESTRICTIONS ON THE USE OF CERTAIN CONVENTIONAL  
WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE  
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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF THE REPORT OF THE WORK OF THE GROUP OF  
GOVERNMENTAL EXPERTS AND GENERAL EXCHANGE OF VIEWS (agenda item 10)  
(continued)

1. Ms. JURIĆ-MATEJČIĆ (Croatia) expressed support for the statements made at the previous meeting on behalf of the European Union by the representative of the United Kingdom of Great Britain and Northern Ireland, concerning work to be pursued in 2006 on the issue of mines other than anti-personnel mines, and in particular the idea of directing such work towards the negotiation of a new instrument on the issue.
2. Mr. STREULI (Switzerland), drawing attention to the set of recommendations on mines other than anti-personnel mines drawn up by the Coordinator on the issue following the work of the Group of Governmental Experts, pointed out that the document was the outcome of intensive discussions in which many States parties had actively participated, that it had evolved, and that, even though it had not ultimately received the support of all the States parties to the Convention, it reflected a compromise which Switzerland, while not completely satisfied, since it would have preferred still stricter restrictions on mines other than anti-personnel mines, particularly as regards their detectability, was ready to accept as a basis for further more detailed work. As far as further work on the issue was concerned, Switzerland considered that the Group of Governmental Experts should be given a mandate which would lead to the adoption of a legally binding instrument at the 2006 Review Conference which would reflect substantial progress in protection of the civilian population against the effects of mines other than anti-personnel mines.
3. Ms. WHELAN (Ireland) observed that the Group of Governmental Experts had made significant progress on the issue of mines other than anti-personnel mines, largely thanks to the documents prepared by the Coordinator on the issue, and in particular the most recent of them, in which Mr. Reimaa had selected only the most realistic possible options, while highlighting the remaining points of difference. Bearing in mind that, in a period of four years, the Group of Governmental Experts had thoroughly studied the issue and many proposals made, she considered that it was now time to move to the next stage, namely the negotiation of a legally binding instrument on mines other than anti-personnel mines with a view to its adoption at the 2006 Review Conference.
4. She informed the meeting that her country was working towards ratification of Protocol V. Noting that that instrument set out post-conflict measures for addressing the problem of explosive remnants of war, she expressed the wish that in 2006 the Group of Governmental Experts would continue its work on the application of existing principles of international humanitarian law and possible preventive measures to prevent the emergence of such remnants.
5. Submunitions posed a double problem, since they could not only become explosive remnants of war, because of the high failure rate, but also, in certain circumstances, such as when they were used against targets close to concentrations of civilians, could have indiscriminate effects even when functioning as designed. That aspect of submunitions should also be addressed in the context of the Convention.

6. Ireland fully supported efforts being made by the Chairperson in the hope of securing consensus on a Convention-wide compliance mechanism that was both cost-effective and non-intrusive.
7. Mr. SANHUEZA (Chile), speaking on behalf of the delegations of Argentina and Chile, took note of the Chairperson's excellent work regarding compliance with the Convention and the attached Protocols, as well as that of the Coordinators of the two working groups on mines other than anti-personnel mines and explosive remnants of war, Mr. Reimaa and Mr. Prasad.
8. Concerning mines other than anti-personnel mines, the delegations of Argentina and Chile continued to seek a legally binding instrument which would address the issue. They considered that after four years of discussions in the Group of Governmental Experts, it was time to look towards the negotiation of such an instrument. They deplored the fact that the Group of Governmental Experts had been unable to make a recommendation to that effect and suggest the adoption of a fairly broad negotiating mandate, so as to encompass the entire range of opinions expressed during its work. That said, putting such an instrument into effect would certainly entail huge expense for developing countries such as Argentina and Chile, which should be able to count on appropriate cooperation and assistance to fund implementation activities.
9. Ms. ROVIROSA PRIEGO (Mexico), pointing out that the main purpose of the Convention and the attached Protocols was to protect the civilian population in situations of armed conflict and save combatants from unnecessary suffering, said that their universality should continue to be promoted, and consequently supported the proposal that an appeal should be addressed to States which had not already done so to become parties to the Convention and the Protocols.
10. It was to be hoped that the implementation of Protocol V on explosive remnants of war would lead to an effective reduction of the risks to the civilian population arising from such remnants and their impact on post-conflict socio-economic development, provided that all States and their armed forces applied the rules thus laid down in practice. Her Government had undertaken to reply to the questionnaire set out in document CCW/GGE/X/WG.1/WP.2, believing that the replies to the questionnaire, taken together, would constitute a source of valuable information on the way in which States were applying the provisions of international humanitarian law to the use of munitions which might become explosive remnants of war.
11. As for mines other than anti-personnel mines, while appreciating the difficulties encountered by the Group of Governmental Experts in arriving at consensus wording which would address the humanitarian problems arising from the use of such mines, she noted with concern that no possible solution to those problems was forthcoming after four years of intensive work and exchanges of views. Consequently, she believed that States should continue work on the issue only if they agreed to consider the possibility of adopting a legally binding instrument whose provisions would supplement and truly bolster those of Amended Protocol II. The final goal of such work must be the elimination once and for all of the human impact of mines other than anti-personnel mines, and not only the technical improvement of those devices.

12. Similarly, she considered that possible preventive measures to improve the reliability of certain types of munitions - which the Group of Governmental Experts was also expected to study - did not offer the only possible solution to the humanitarian problem posed by the munitions in question. From the humanitarian standpoint, there was also a need to contemplate preventive measures which involved the responsible use of weapons whose munitions might not detonate as designed. In that context, the Third Review Conference might offer an opportunity to conduct a debate on the humanitarian impact of the use of cluster weapons, whose harmful effects on the civilian population had been amply demonstrated.

13. Her delegation considered that it was necessary to provide the Convention and the attached Protocols with an effective and non-discriminatory international compliance mechanism. The working papers on the issue presented by the Chairperson should pave the way for the establishment of such a mechanism, perhaps during the Third Review Conference.

14. Her Government hoped that the preparations for the Third Review Conference would be carried out in the Group of Governmental Experts so as to ensure broad participation by States and avoid additional expense. She favoured the holding of the Conference in Geneva, on the dates suggested. In addition, she would like the Conference to be chaired by a person with the experience and skills needed to guide the preparatory work effectively and ensure the success of the Conference, while the principle of rotation among regional groups should be maintained as far as the post of President of the review conferences was concerned.

15. Mr. KHAN (Pakistan) said that all the sessions of the Group of Governmental Experts had been useful, with the highlight of its work being the negotiation of Protocol V on explosive remnants of war in 2003. The work on mines other than anti-personnel mines had also been productive. He was very encouraged by the position adopted by several delegations during the present exchange of views, that the discussions on the issue had made enough progress that the opening of negotiations could be envisaged. The recommendations as a whole, though they appeared to take account of concerns on all sides, had unfortunately not yet secured unanimous support. Differences concerned substantive issues which were of crucial importance. In those circumstances, it would be best to allow time for reflection, and then to resume the consultations with a focus on specific questions. He supported the proposal put forward by China and the Russian Federation, as endorsed by the representatives of various States, including Cuba and Brazil.

16. Pakistan would reply in due course to the questionnaire on the principles of international humanitarian law and explosive remnants of war. He welcomed the idea raised by Canada regarding the preparation of an analysis of States parties' responses to the questionnaire. The debate on the issue of a compliance mechanism for the Convention and the Protocols had been very constructive, and it should be continued with the aim of reaching a consensus on a voluntary, non-discriminatory and non-intrusive mechanism drawing on articles 13 and 14 of Amended Protocol II. He welcomed the idea of setting up a sponsorship programme under which States with limited resources could play a fuller part in work under the Convention.

17. During the preparations for the Third Review Conference, the States parties to the Convention should pursue the objective of securing the entry into force of Protocol V, working for the universalization of the Convention and its five Protocols and reaching agreement on a set of recommendations on anti-vehicle mines. In all their efforts, they should uphold the spirit of cooperation which had prevailed during the negotiation of the Convention and its Protocols, as well as the principle of balance between humanitarian concerns and defence needs which underlay them. He commended the International Committee of the Red Cross and the Geneva International Centre for Humanitarian Demining for their role in promoting awareness of the humanitarian risks posed by the irresponsible use of conventional arms.

18. Mr. ARROYAVE (Guatemala) said that his country sought a mine-free world and hoped that it would be possible to achieve one gradually, with the cooperation of all States. In that spirit Guatemala had co-sponsored the 31-country proposal on mines other than anti-personnel mines in 2001.

19. Four years had elapsed, during which the Group of Governmental Experts had examined expert studies on the design, operation, use and effects of such mines, as well as the tactical and strategic needs they met, for the sake of which innocent persons ultimately had to suffer for the whole of their lives from the loss of friends and family or from distressing injuries. The Group of Governmental Experts had also studied improvements which could be made to such mines to make them more reliable. Guatemala considered that whatever the cost, mines other than anti-personnel mines should at the very least be detectable using simple techniques, be self-destructing or self-deactivating and be marked so that the civilian population could identify them; the irresponsible use of anti-handling devices and sensitive fuses should be banned.

20. Following those four years of work, the Coordinator on the issue had drawn up a set of draft recommendations, striving to arrive at a balance among the positions on all sides. Guatemala supported them, while considering that the exclusions sought by some States lessened their humanitarian scope. In Guatemala's view, it was high time to negotiate an instrument on mines other than anti-personnel mines which was consistent with humanitarian law and compensated for the gaps in Amended Protocol II.

21. Mr. HEDBERG (Sweden) said he stood fully behind the statement delivered at the previous meeting on behalf of the European Union by the representative of the United Kingdom of Great Britain and Northern Ireland, including the idea of launching negotiations on an instrument on mines other than anti-personnel mines.

22. Concerning the issue of explosive remnants of war and cluster weapons, he noted that, while the latter were not prohibited under international law, there were strong arguments in favour of restrictions on their use. The dangers inherent in cluster weapons could not be ignored. Reports submitted by non-governmental organizations had documented them. Some Governments had even taken steps in relation to the use of such weapons in the light of the problems they caused. The States parties had made valuable contributions to the discussions in the Group of Governmental Experts on the issue, some of them focused on international

humanitarian law and others on more technical issues, or questions which were both technical and legal. Clearly, the discussions should be continued in order to see what could be done to minimize the hazards of cluster weapons for human beings. The issue of alternative weapons should also probably be addressed.

23. It would be necessary to determine whether the existing principles of international humanitarian law sufficiently took into consideration the effects of the use of cluster weapons on civilians and civilian objects. In order to continue to evaluate those principles, as many States parties as possible should reply to the questionnaire in document CCW/GGE/X/WG.1/WP.2 before 13 January 2006. He greatly appreciated the offer of the Australian Government to arrange for an analysis of States' replies in due time. With regard to possible technical improvements in cluster weapons, he called on States to study the possibility of following the Swedish armed forces in equipping such weapons with a deactivation mechanism which rendered duds harmless, even for the civilian population, within two hours. Such a mechanism would dramatically reduce the problems caused by cluster weapons which became explosive remnants of war.

24. Mr. BORISOVAS (Lithuania) said that his country aligned itself with the statement delivered at the previous meeting on behalf of the European Union by the representative of the United Kingdom of Great Britain and Northern Ireland. In particular, he wished to reiterate Lithuania's commitment to opening negotiations on an instrument relating to mines other than anti-personnel mines before the 2006 Review Conference. The discussions held over four years, which were based on the proposals submitted individually and jointly by the States parties, and particularly the set of recommendations submitted by the Coordinator, Mr. Reimaa, to the Group of Governmental Experts at its twelfth session, had laid solid foundations on which the States parties would be able to build as they considered broadening the mandate of the Group of Experts.

25. Although Lithuania had ratified all the mine-related treaties and fulfilled its international obligations in that regard, mine action and the application of the principles of international humanitarian law remained among its priorities. While implementation of international obligations was the responsibility of each State, international cooperation and assistance could nevertheless make a contribution. In that regard, he informed the meeting that a regional seminar on explosive remnants of war and problems encountered in that regard had been organized in Kaunas, in Lithuania, in November 2005. It had been attended by representatives of the Baltic countries, neighbouring countries and States from the southern Caucasus and Canada, as well as representatives of intergovernmental and non-governmental organizations. The main purpose of the seminar was to support the process of ratification of Protocol V to the Convention and secure its entry into force. The participants took note of progress in that direction and some of them stated that their countries would embark on the process of ratifying the Protocol as soon as an official translation of the instrument into Russian was available. The participants mentioned the national machinery set up for the application of the principles of international humanitarian law and the plans drawn up to ensure the full implementation of Protocol V, suggesting specific measures which might be taken to that end, such as the revision of laws and regulations, the drafting of military manuals and training activities. They discussed scope for regional cooperation and assistance, including the idea of organizing joint training courses in mine clearance.

26. Mr. REITERER (Austria) said that his delegation fully supported the statement delivered on behalf of the European Union by the representative of the United Kingdom of Great Britain and Northern Ireland. He wished to add a few remarks relating to the issue of mines other than anti-personnel mines. His delegation too was disappointed at the failure of the Group of Governmental Experts to reach consensus on the set of recommendations relating to such mines. It had become convinced that the intensive discussions held over four years had thrown sufficient light on all the issues at hand. It was of the view that the 2006 Review Conference should be able to reach agreement on a negotiated legally binding instrument on mines other than anti-personnel mines, and hence strongly favoured the continuation of work on that issue within the framework of a negotiating mandate on the text presented by the Coordinator on the issue, the Ambassador of Finland, Mr. Reimaa.

THIRD REVIEW CONFERENCE OF THE STATES PARTIES TO 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 (agenda item 11)

27. The CHAIRPERSON reminded the States parties that the Second Review Conference had decided to convene a further review conference not later than 2006 (CCW/CONF.II/2, Final Declaration, Review of the Articles, art. 8). He drew their attention to paragraphs 8 to 11 of draft resolution A/C.1/60/L.48, concerning the organization and work of the Third Review Conference, which the First Committee of the United Nations General Assembly had adopted in October 2005. Bearing in mind those provisions and the recommendations made by the Group of Governmental Experts on that issue at its twelfth session, he proposed that the Third Review Conference should be organized as follows. It would be held in Geneva from 7 to 17 November 2006; all the preparations for the Conference would be undertaken within the framework of the Group of Governmental Experts, at its sessions in 2006. The present Meeting of States Parties would nominate the President of the Review Conference. In addition, it would adopt an appeal for the universalization of the Convention and the Protocols annexed to it and would recommend that the United Nations Secretary-General and the Chairperson of the present Meeting should, in the exercise of their functions, work for the universalization of those instruments. The States parties might also consider organizing national or regional workshops, conferences or other events dealing with issues related to the Convention and its Protocols or aimed at promoting them. Lastly, the President designate would undertake consultations during the intersessional period on the idea of establishing a sponsorship programme and the details of such a programme.

28. He invited the delegations to offer their views on the arrangements for the organization of the Third Review Conference and to put forward any comments and propose any changes they deemed useful in relation to the draft appeal, which had been distributed to them in English only.

29. Mr. HU (China) said he approved of the arrangements for the organization of the Third Review Conference, as well as the draft appeal, though he noted a mistake in the draft: the word “urges” in the last paragraph should be replaced by “urge”.

30. Mr. RIVASSEAU (France) commended the draft appeal as excellent. However, it might be useful in his view to indicate that it was important for certified translations of all the protocols, and particularly Protocol V, to be available in all the official languages of the United Nations, as the lack of such translations could give rise to delays in the process of accession to the protocols.

31. The PRESIDENT said that note would be taken of the drafting change suggested by China and the proposal made by France, as well as the wishes expressed by other delegations, including the inclusion of a reference to the most recent United Nations General Assembly resolution on the subject of the Third Review Conference.

The meeting rose at 4.30 p.m.