

**SECOND CONFERENCE OF THE HIGH
CONTRACTING PARTIES TO PROTOCOL V
ON EXPLOSIVE REMNANTS OF WAR 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 Monday, 10 November 2008, at 3 p.m.

President: Mr. BORISOVAS (Lithuania)

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The meeting was called to order at 3.15 p.m.

REVIEW OF THE STATUS AND OPERATION OF THE PROTOCOL (continued)
(CCW/P.V/CONF/2008/2 and 6)

Victim assistance

1. Mr. SCHOISWOHL (Austria), speaking as Coordinator on victim assistance, introduced the related report, which was contained in document CCW/P.V/CONF/2008/2. The report offered an account of the activities and initiatives undertaken to improve assistance to victims of explosive remnants of war. The principle of victim assistance, and the need to ensure a common humanitarian standard for all victims of armed conflict, had been recognized in the negotiations on a draft protocol concerning cluster munitions and was enshrined in various legal instruments. Victim assistance was not a novelty; rather it formed an integral part of a web of existing international obligations and standards that was constantly evolving. The considerable progress already achieved needed to be built on in the context of Protocol V, in order to fulfil the commitment to provide assistance for the care and rehabilitation and social and economic reintegration of victims of explosive remnants of war.
2. To that end, a series of initiatives had been launched in 2008, including the circulation of a questionnaire on victim assistance, reproduced in annex I to the report. He proposed that responses to the questionnaire should be incorporated in the Protocol V database, for the purposes of ensuring transparency and facilitating the exchange of experience in implementing the victim assistance provisions of Protocol V. In addition, a seminar had been held on various aspects of victim assistance, and a segment of the meeting of experts had been given over to the issue.
3. The aim of the proposed plan of action on victim assistance, contained in annex II to the report, was not to introduce new legally binding standards but to build on existing standards and practices; to consolidate victim assistance as a common humanitarian feature of endeavours to further develop the normative framework concerning the use of weapons; and to serve as the political expression of a common understanding with regard to the various dimensions of the notion of victim assistance. In that connection, he stressed the need for a comprehensive and uniform approach to victim assistance that met the basic requirement of non-discrimination between victims of armed conflict and for consideration of the issue within the overall CCW framework.
4. Mr. HEMMINGWAY (Australia) endorsed the proposed plan of action on victim assistance. Victim assistance activities should be conducted in an integrated fashion, and he was pleased to see that principle reflected in the plan of action, inter alia in references to the socio-economic needs of survivors' families and communities. The provision of victim assistance should be non-discriminatory and should not differentiate between victims of different forms of explosive remnants of war, as set out in proposed Action 1. The principle of assistance based on need should be applied to all disabled persons, not just to victims of armed conflict, and he therefore welcomed the reference to the Convention on the Rights of Persons with Disabilities. Assistance to victims of explosive remnants of war should be provided within the

framework of that Convention and other relevant instruments, in order to avoid overlap and duplication. The High Contracting Parties should include the rights of persons with disabilities in their national policy frameworks and provide practical solutions for their integration, as described in Action 4. The plan of action was in keeping with the work being carried out on a sixth protocol to the Convention on Certain Conventional Weapons. The plan of action would not be legally binding and was not idealistic; rather it reflected lessons learned about how to ensure appropriate, effective and efficient support for survivors in the long term.

5. Ms. BAKER (Observer for the United States of America) said that the United States supported various victim assistance programmes worldwide, including through the Leahy War Victims Fund, which provided dedicated assistance to war victims, regardless of the cause of their injury, including medical care and reintegration in society. In 2008, the United States had provided a total of \$13.8 million for victim assistance. Her delegation was in favour of the elaboration of a plan of action on victim assistance. The plan should focus, however, on facilitating implementation of the relevant provisions of Protocol V and should not appear to create new obligations for High Contracting Parties. Her delegation was unable to support the plan of action as it currently stood.

6. She suggested deleting the second preambular paragraph, as its meaning was not clear, and replacing the phrase “bearing in mind”, at the start of the fourth preambular paragraph, with “recalling”. The fifth preambular paragraph should be amended to read: “Recognizing the right of each High Contracting Party to seek and receive assistance in accordance with the provisions of Protocol V”; it was not clear what victim assistance obligations the current text referred to, since Protocol V stated only that “each High Contracting Party in a position to do so shall provide assistance” to victims. The eighth preambular paragraph should be deleted, as it did not have a basis in Protocol V. In the ninth preambular paragraph, the phrase “bearing in mind the principle of non-discrimination and” should be deleted, for there was no such principle in international law. In paragraph 1, Action 1, the phrase “humanitarian and human rights law” should be replaced with “law”, the phrase “and the principle of non-discrimination contained therein” should be deleted and the remainder of the sentence should be amended to read: “should provide or take steps to facilitate the provision of medical care, rehabilitation, psychological support and adequate assistance for social and economic inclusion”. In the first line of Action 4, the phrase “as appropriate” should be inserted after “each High Contracting Party should”.

7. Those amendments were necessary because the United States and others were still in the process of ratifying Protocol V, and it would not be helpful if the High Contracting Parties were to take positions that appeared to change the understanding of their obligations. Also, in the United States, medical care and social support were provided through a variety of sources, not all of which were public.

8. Ms. HALLER (Switzerland) endorsed the plan of action, which was essential for promoting a coordinated, inclusive and integrated approach to victim assistance and would make a real difference to the lives of the nearly 500,000 survivors of explosive remnants of war. Her delegation attached particular importance to the aspect of non-discrimination against victims, to broad interpretation of the term “victim” and to consultation and active involvement of victims and their representative organizations.

9. Mr. RITTER (Liechtenstein) expressed support for the plan of action on victim assistance. Involving victims in the elaboration of national plans was crucial to the effectiveness of any activity aimed at victim relief and assistance. He welcomed the references in the preamble to the potential adverse effects of explosive remnants of war on victims' families and communities, and to the need to coordinate efforts undertaken in various forums to address the rights and needs of victims of various types of weapons.

10. Ms. KUNDUROVIĆ (Bosnia and Herzegovina) endorsed the plan of action. It was important for assistance to be provided equally to all victims, on the basis of the principle of non-discrimination. The proposed plan of action was in keeping with the work being carried out on a sixth protocol to the Convention on Certain Conventional Weapons.

11. Mr. KOSHELEV (Russian Federation) said that some provisions of Action 4 of the plan of action, in particular paragraph (c) concerning the development of a national plan and budget and paragraph (g) requiring the designation of a focal point within the Government, encroached on the domestic competence of the High Contracting Parties. His delegation therefore proposed inserting the phrase "if necessary" in the introductory paragraph of Action 4; that would soften the language and help to make the text more acceptable at the national level.

12. Mr. KUMAR (India) said that he was unable to support the proposed plan of action as it stood. Protocol V contained no specific article on victim assistance. Article 8, paragraph 2, of the Protocol, which called for the provision of assistance for the care and rehabilitation and social and economic reintegration of victims of explosive remnants of war, was addressed only to "each High Contracting Party in a position to do so". In addition, the term "victims of explosive remnants of war" within the meaning of article 8, paragraph 2, did not extend to the victims' families or communities. With regard to paragraph 5 (iii) of the report, he stressed that Protocol V was not a political tool but a legally binding instrument. Lastly, he expressed concern that the focus on victim assistance, which was related exclusively to post-conflict situations, should not overshadow the central focus of the Convention on Certain Conventional Weapons and proposed that consideration of the plan of action should be postponed to the 2009 meeting of experts.

13. Ms. PLEŠTINA (Croatia) said her Government was pleased that victim assistance, rehabilitation and reintegration were being given due importance within the CCW framework. Croatia continued to support such efforts at the national level, as it made economic sense to include all available talent in the workforce, and it was a logical humanitarian measure for any civilized nation to take. Her delegation therefore firmly supported the plan of action on victim assistance as presented by the Coordinator.

14. Mr. MARESCA (International Committee of the Red Cross) noted that, unlike a protocol, the plan of action was not a legally binding document. Most of the measures highlighted in the plan were based on nearly a decade of experience in the area of victim assistance. The plan of action would make Protocol V a stronger and more comprehensive instrument for dealing with the humanitarian problems caused by explosive remnants of war. He therefore called for the adoption of the plan of action.

15. Mr. MOYES (Landmine Action) said that adopting a politically binding plan of action on victim assistance would clearly indicate the determination of States to make Protocol V an effective and dynamic humanitarian instrument. The plan of action flowed directly from a legal obligation on the High Contracting Parties under article 8, paragraph 2, of the Protocol. Furthermore, it was consistent with the concepts and models of victim assistance that were evolving internationally. He appreciated the recognition in the eighth preambular paragraph that explosive remnants of war affected not only the persons directly impacted by them but also their families and communities. That paragraph did not extend the Parties' legal obligations under Protocol V, as the Protocol did not restrict the term "victims" to persons directly affected by explosive remnants of war. With regard to Action 1, States must take responsibility for adequate provision of assistance to victims. A mere commitment to take steps would not set a benchmark for actions that responded sufficiently to their needs. Referring to Action 4, he suggested that paragraph (a) calling on High Contracting Parties to assess the needs of victims should be incorporated in the introductory paragraph, as those needs must be the Parties' primary consideration when implementing the plan.

16. Mr. LAURIE (United Nations Mine Action Service) expressed support for the recommendations set out in paragraph 5 of the report. The questionnaire on victim assistance under Protocol V should be disseminated widely, so as to get the broadest possible response. The plan of action reflected current best practice in many parts of the world and deserved to be supported.

17. Ms. WALKER (International Campaign to Ban Landmines) said that she wished to associate herself with the statement made by the representative of Landmine Action and urged all High Contracting Parties to adopt the plan of action. Victim assistance should be seen not as a cost but rather as an investment in the future of many countries.

18. Mr. SCHOISWOHL (Austria), speaking as Coordinator on victim assistance, noted the overwhelming support expressed by delegations for reaching a common understanding on the plan of action. He also noted the concerns of some delegations and the request to postpone consideration of the plan to the 2009 meeting of experts. However, achieving a common understanding on the plan of action would reflect significant progress in implementing Protocol V, in particular article 8, paragraph 2, and produce a specific, positive outcome to the Conference.

19. The PRESIDENT invited the Coordinator to undertake further consultations on the document and to report back to the Conference on the results.

20. Mr. KUMAR (India) said that his delegation was not opposed to the plan of action. However, he had raised some questions that had yet to be answered. The amendments proposed by the representatives of the United States and the Russian Federation also required further consideration, for which there was not sufficient time. He therefore wished to reiterate his request for the report to be taken up at a later date.

21. The PRESIDENT said that the High Contracting Parties should make use of the remaining time available to build on the decisions reached at the First Conference and urged them to enter into consultations with the Coordinator, with a view to achieving tangible results at the current Conference. If he heard no objection, he would take it that delegations wished to proceed in that manner.

22. It was so decided.

Cooperation and assistance and requests for assistance

23. Mr. SOMOGYI (Hungary), speaking as Coordinator on cooperation and assistance and requests for assistance, introduced the related report, which was contained in document CCW/P.V/CONF/2008/6. Annex I to the report contained forms for requests for assistance for the explosive remnants of war (ERW) database, which he had prepared in collaboration with other delegations. He was grateful to the Government of Serbia, which had made a very detailed submission using the trial template for the database. He had followed the suggestion of the International Committee of the Red Cross to include social and economic impacts in the field entitled "Overall narrative" in form A and form B.

24. He also drew attention to the proposal for a web-based information system for Protocol V (WISP.V), contained in annex II. Protocol V required an effective implementation support tool. However, care should be taken to avoid overlapping with other existing or evolving systems.

25. Ms. BAKER (Observer for the United States of America), noting her Government's major contribution to mine action and explosive remnants of war clearance, said that the ERW database and forms for requests for assistance were comprehensive. However, it was difficult to assess the priorities of the requesting country. As resources were scarce, donors should be given adequate information to direct funds where they would do the most good. Such information should include the requesting countries' assessment of their priorities and the impact explosive remnants of war had on them. Mapping and survey mechanisms, which categorized tasks as low, medium or high priority, could be added to the forms.

26. More time was needed to assess the relevance of the WISP.V information system. A full assessment of the value it added and the associated maintenance costs should be provided in advance of the Third Conference of the High Contracting Parties.

27. A simulation of the web-based information system for Protocol V was projected.

28. Mr. STRØMØ (Norway) said that his delegation found the system promising and would welcome further information on how it might be used.

29. The PRESIDENT said he took it that the Conference wished to approve the recommendations contained in the report on cooperation and assistance and requests for assistance.

30. It was so decided.

31. The PRESIDENT said that the Conference had thus approved the use of the forms for requests for assistance, as contained in annex I, as a template for submissions to the ERW database by States seeking assistance in dealing with explosive remnants of war. That would facilitate submissions by countries in need and provide for an efficient tool to foster cooperation and assistance under Protocol V.

32. The Conference had also decided that the 2009 meeting of experts should consider further the establishment of the WISP.V information system, in order to prepare a comprehensive final proposal for consideration and adoption by the Third Conference of the High Contracting Parties to Protocol V.

The meeting rose at 4.25 p.m.