

Third 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, 9 November 2009, at 3 p.m.

President: Mr. Rao (India)

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* Items which the Conference has decided to consider together.

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The meeting was called to order at 3.10 p.m.

General exchange of views (*continued*)

Review of the status and operation of the Protocol (*continued*)

Consideration of matters pertaining to national implementation of the Protocol, including national reporting or updating on an annual basis (*continued*)

Preparation for review conferences (*continued*)

Report(s) of any subsidiary organ(s) (*continued*)

1. **Mr. Koh** (United States of America) said that the United States was a world leader in humanitarian mine action. It had provided more than \$1.5 billion for mine action in 46 countries since 1993 (in other words between one quarter and one third of global humanitarian assistance in that area), including \$113 million in assistance to 35 countries in 2009 alone. It also had a deployable team of experts, known as the Quick Reaction Force. Its public-private partnership programme brought together more than 60 organizations involved in public awareness and education activities, provided victim assistance and participated in removing landmines and destroying explosive devices.

2. With respect to generic preventive measures to limit the creation of explosive remnants of war, the United States was carrying out a physical security and stockpile management programme for all its munitions and offered advice, training and technical assistance to other States on stockpile management.

3. The Convention on Cluster Munitions could not fully ensure national security interests because the States that produced and stockpiled the vast majority of such weapons were not party to it; the United States was therefore committed to working to achieve a legally binding protocol in that area.

4. At the national level, his Government was continuing to implement the policy adopted in 2008, which stated that by 2018 the Armed Forces of the United States would no longer use cluster munitions that, after arming, resulted in more than 1 per cent unexploded ordnance across the range of intended operational conditions (i.e. over 95 per cent of the current American stockpiles, or some 5 million cluster munitions with 700 million submunitions). The budget required to destroy the stockpile was estimated at \$2.2 billion.

5. The United States knew that negotiations on a cluster munitions protocol continued to be difficult and that differences remained, but it believed that an agreement that imposed meaningful requirements on the countries holding 90 per cent of the world's stockpiles of cluster munitions would be an important step forward from a humanitarian standpoint.

Thematic discussion on victim assistance (CCW/P.V/CONF/2009/3)

6. **The President** recalled, as a prelude to the discussion, that the adoption by the States parties at the Second Conference, in 2008, of the plan of action on victim assistance (CCW/P.V/CONF/2008/12, annex IV) had been a landmark achievement for Protocol V.

7. **Ms. Robinson** (Australia), speaking as Coordinator on victim assistance under Protocol V to the Convention, said that her role had been to facilitate sharing of information on how best to implement the plan of action on victim assistance, while bearing in mind the obligations in respect of cooperation and assistance for victim assistance established in article 8 of the Protocol. She announced that, before she introduced her report and recommendations, an expert panel on victim assistance would consider the plan of action in the broader multilateral context encompassing the Convention on the Rights of Persons

with Disabilities, to which 99 of the 110 States parties to the Convention on Certain Conventional Weapons and 53 of the 61 States parties to Protocol V were parties or signatories.

8. **Ms. Zarraluqui** (Office of the United Nations High Commissioner for Human Rights), making a Power Point presentation, drew attention to the importance of the Convention on the Rights of Persons with Disabilities for the implementation of assistance to victims, including victims of explosive remnants of war. The Convention expanded the legal framework established by the provisions on victim assistance in article 8, paragraph 2, of Protocol V, redirected that assistance towards realizing the rights of persons with disabilities and clearly identified the measures States parties should take to guarantee those rights, in particular for survivors of explosive remnants of war. Furthermore, the Convention placed victim assistance in the wider context of disability; persons with disabilities and survivors of explosive remnants of war both faced, on a daily basis, exclusion, discrimination and barriers to their participation in social life, hence the need to integrate victim assistance in programmes and initiatives for persons with disabilities already in place at the national level.

9. The Convention on the Rights of Persons with Disabilities supplemented the plan of action, as shown by the following comparisons: article 4 of the Convention and action 4 (b) of the plan, concerning legislative and other measures; articles 3, 4 and 33 and action 4 (g), on coordination mechanisms and involvement of victims; and article 32 and action 3, pertaining to cooperation and assistance. Lastly, the Convention already provided for national and international monitoring (arts. 33–37), which the States parties to Protocol V could make use of for monitoring and assessing progress in the area of victim assistance.

10. **Mr. Verhoeff** (Director of the Special Fund for the Disabled, International Committee of the Red Cross), making a Power Point presentation, first recalled that the mission of the International Committee of the Red Cross (ICRC) was to protect the lives and dignity of victims of war and to help them not only with their physical rehabilitation but also with their reintegration in family and community through employment and education. To that end, the Committee provided assistance through two channels, the Physical Rehabilitation Programme and the Special Fund for the Disabled, which were complementary in respect of their timing, the level of involvement of local partners and their mandates. The former was mainly concerned with projects related to restoring mobility, with 81 projects under way in 25 countries in 2008, while the latter took over from it in countries where ICRC was no longer active (64 projects in 32 countries). The rehabilitation process for victims, including victims of explosive remnants of war, consisted of several stages: emergency medical care and transportation, physical and functional rehabilitation care, psychological support and economic reintegration; throughout those stages data were collected to assess needs and monitor activities. As part of that process, ICRC applied a two-pronged approach that focused on both people and structures.

11. ICRC faced many challenges in ensuring that persons with disabilities had access to an efficient and continuous rehabilitation programme, especially since it intervened in situations of conflict or violence that had a direct effect on the general health of the population, the health system and society, the link between needs and services, and the economic situation. Over the previous 30 years of providing victim assistance, ICRC had learned a number of lessons, not least that the problems faced by survivors of explosive remnants of war were similar to those faced by other persons with disabilities. Furthermore, the different components of victim assistance were all necessary and interrelated. National ownership of the process was also a key issue. Ensuring that victim assistance programmes were sustainable and appropriate sometimes required the strengthening of national capacities. Lastly, a deep understanding of the situation was vital and, therefore, collaboration and coordination among ministries, national institutions and organizations of

persons with disabilities were essential. All those elements were included in the plan of action on victim assistance. The political commitment of the signatory countries to the Convention on Certain Conventional Weapons was crucial for supporting the development and implementation of an appropriate victim assistance programme within national systems.

12. **Ms. Officer** (World Health Organization), making a Power Point presentation on disability and rehabilitation, reviewed the strategic priorities of the World Health Organization in that area for the period 2006–2011. They involved raising awareness, facilitating disability-related data collection, strengthening health and rehabilitation services for persons with disabilities and their families, promoting community-based rehabilitation, promoting the development, production, distribution and servicing of assistive technology, supporting policies to improve rights and opportunities for persons with disabilities, building capacity among policymakers and service providers, and putting in place multisectoral networks and partnerships. In June 2010, the World Health Organization would publish the *World Report on Disability and Rehabilitation*, which had been designed to highlight best practice, enable States to improve policy development, investment and organization and delivery of services, and support the implementation of the Convention on the Rights of Persons with Disabilities. Guidelines on community-based rehabilitation, prepared in collaboration with other international organizations, would be available in 2010. Such an approach was being implemented in more than 90 countries, and 3 regional networks had been set up to support it. There were several publications containing guidelines on training specialized personnel and building capacity with regard to assistive devices. A number of publications on trauma care were also available.

13. **Mr. Itzhaki** (Observer for Israel) recalled that his country had initiated the process of ratifying the Convention on the Rights of Persons with Disabilities. It was also considering a comprehensive approach to the care of disabled persons, irrespective of the cause of their disability.

14. There had been considerable debate as to the definition of victim, with respect to both victims of cluster munitions and victims of explosive remnants of war, since the definition could affect the assistance provided to the persons concerned. A very focused definition appeared to be required and not necessarily one that encompassed the victim's environment, namely, his family and community.

15. **Mr. Ahmad** (Pakistan) said he considered that the issue of responsibility for assistance to victims of explosive remnants of war was not clearly addressed in the Convention on the Rights of Persons with Disabilities. International cooperation and assistance were appreciated but it remained to be determined what was chiefly understood by responsibility with regard to rehabilitation in its various aspects.

16. **Ms. Sancar** (Observer for Turkey), welcoming the Coordinator's report, said that it addressed adequately the main issues, namely, the principle of non-discrimination, the need to better identify the scale of the problem at the national level and the need to make the best use of the existing guidelines in the context of the Convention on the Rights of Persons with Disabilities. In the years to come, thought should be given to specific measures to reflect those considerations; coordination of the initiatives taken would be vital. Referring to one of the recommendations contained in the report, she underlined the importance of encouraging High Contracting Parties and observers to identify themselves as having responsibility for a significant number of victims or as donors to victim assistance.

17. **Mr. Kimpton** (Australia) recalled that Australia was a party to Protocol V, the Convention on the Rights of Persons with Disabilities and other instruments relating to victim assistance and the rights of persons with disabilities.

18. With respect to article 32 of the Convention, which dealt with cooperation and assistance, Australia had developed an assistance programme (Development for All), which required that the rights of persons with disabilities and the provision of assistance to them should be systematically integrated in all relevant aspects of development assistance. Australia was also one of the main donors to victim assistance within the framework of Protocol V and other instruments. In that regard, his delegation would be interested to know how actions to implement article 32 could be organized in a rational manner.

19. **Ms. Baker** (United States of America) recalled that her country provided victim assistance through the Patrick J. Leahy War Victims Fund run by the United States Agency for International Development (USAID) and that that assistance was primarily intended to promote the independence of persons with disabilities.

20. Referring to community-based rehabilitation initiatives, she explained that the United States had observed how difficult it was to provide long-term support for international donors' efforts at the regional level and that, consequently, her Government preferred to give priority to supporting local associations that provided services to survivors of accidents caused by explosive remnants of war and to other persons with disabilities. In that regard, she wished to know whether the representative of the World Health Organization had observed a similar trend while carrying out her work.

21. **Ms. Žunec Brandt** (Croatia) asked the experts what measures would be best for countries such as Croatia, which had many victims of explosive remnants of war. Croatia had developed a plan of action under the Convention on the Rights of Persons with Disabilities. As the plan was considered sufficient for caring for persons with disabilities, no special arrangements had been made under the Convention on Certain Conventional Weapons. Was it necessary, however, to take additional measures, given that families and communities were not recognized in the Convention on the Rights of Persons with Disabilities?

22. **Ms. Zarraluqui** (Office of the United Nations High Commissioner for Human Rights), replying to one of the main questions raised by several representatives concerning the Convention on the Rights of Persons with Disabilities, said that it was an instrument to combat discrimination and that it did not simply prohibit discrimination against persons with disabilities. Families could be protected against all forms of discrimination that stemmed from having a family member with a disability. States should support families with children with disabilities to ensure that they had the necessary resources to meet their needs. Given that the Convention referred to the role of families, it could not be said categorically that it did not take account of their situation.

23. **Ms. Officer** (World Health Organization) stressed that the environment in which persons with disabilities lived should be taken into consideration. That environment was made up in part by family members and in part by the community. It was crucially important to reflect that reality and not to consider persons with disabilities separately from their environment.

24. **Mr. Verhoeff** (Director of the Special Fund for the Disabled, International Committee of the Red Cross), endorsing the comments made by Ms. Zarraluqui and Ms. Officer, said that in recent years a change in victim assistance had been noted, with a move towards recognition for families and the community, probably because the effects of weapons extended over particular geographical areas. There was thus a logical link among persons with certain kinds of disabilities caused by certain types of weapon within the same geographical area.

25. **Ms. Zarraluqui** (Office of the United Nations High Commissioner for Human Rights), replying to the comment made by the representative of Pakistan, stressed the importance of both Protocol V and article 2 of the Convention on the Rights of Persons

with Disabilities. The Convention could supplement article 8, paragraph 2, of the Protocol but could not replace it. Article 32 of the Convention, on international cooperation, was a fundamental article as it clearly indicated the need to ensure that international cooperation took account of persons with disabilities and that it was accessible to them.

26. Replying to the representative of Croatia, she said that it was advisable to decide on a case-by-case basis whether current programmes met the needs of the persons concerned, namely, the survivors of accidents caused by explosive remnants of war. In theory, no approach was inappropriate as long as it was based on the principle of non-discrimination and aimed to uphold the rights of persons with disabilities regardless of the cause of their disability.

27. **Ms. Officer** (World Health Organization) said that there should be close cooperation between the bodies responsible, within individual countries, for implementing Protocol V on the one hand and the Convention on the Rights of Persons with Disabilities on the other. There was also a need to ensure that all persons with disabilities, irrespective of the nature and cause of their disability, were able to exercise the rights set out in the Convention on the Rights of Persons with Disabilities. An appropriate monitoring and assessment system should be put in place to ensure that those two principles were implemented.

28. About 70 per cent of rehabilitation needs could be met by training officials at the community level and providing primary health care, which did not preclude the need for specialized services and strengthened links between the community and higher level services. Community-based rehabilitation, which initially was aimed mainly at providing medical care and treatment, had changed considerably in the previous 25 years and could now help strengthen the capacity of communities to ensure that persons with disabilities had access not only to health care but also to education, livelihoods and social activities. It was the view of WHO that capacities should be strengthened at different levels; that involved working at the local level to integrate persons with disabilities in their communities and to ensure that more specialized services, such as prosthetic and orthotic workshops, were accessible, either in the form of local services or through links between communities and higher level services.

29. In relation to the question asked by the representative of Croatia, she said that Croatia should implement a multisectoral policy that addressed both individual issues regarding victims and other persons with disabilities and environmental aspects, which had a significant impact on the way those persons experienced their disability; ensure that the necessary policies had been developed and that adequate financial resources had been allocated for their implementation; and improve existing services by consulting with persons with disabilities, who were familiar with the operation, limitations and shortcomings of those services.

30. **Mr. Verhoeff** (Director of the Special Fund for the Disabled, International Committee of the Red Cross) said that it was important to ensure that some groups of marginalized or vulnerable persons, who had formerly received assistance, were not subsequently forgotten by the system.

31. **Ms. Robinson** (Australia), speaking as Coordinator on victim assistance under Protocol V to the Convention, introduced the related report, contained in document CCW/P.V/CONF/2009/3, in particular the seven recommendations set out in paragraph 6. The recommendations in subparagraphs (a), (c) and (g) related primarily to points which could be considered at forthcoming meetings of experts, in particular the issue of victim assistance. The points contained in subparagraphs (b), (d) and (e) dealt with possible ways to improve understanding of the situation on the ground. Subparagraph (f) dealt with how cooperation and victim assistance under Protocol V could best be facilitated. In the light of views expressed by some delegations, she proposed amending the recommendation in

subparagraph (d) to read: “To request that the meeting of experts consider the possibility of amending the template for reporting under Protocol V to include reporting on implementation of article 8, paragraph 2, and the plan of action.”

32. **Mr. Varma** (India) said that, with regard to victim assistance, a distinction should be made between the obligations of States parties under Protocol V and what they should do under the plan of action adopted in 2008. It was also important to bear in mind the need to ensure compatibility and synergy between Protocol V and the Convention on the Rights of Persons with Disabilities as well as the role of the Coordinator; that position had been established for a specific purpose and should not become institutionalized, irrespective of the area concerned.

33. In that regard, to ensure that the Coordinator was not equated with a permanent institution, he proposed amending the recommendation in paragraph 6 (b) to read: “To request that the Coordinator report to the Fourth Conference of the High Contracting Parties on the state of implementation of article 8, paragraph 2, and the plan of action.”

34. With respect to the recommendation contained in subparagraph (c), his delegation would like to insert, at the end of the subparagraph, the phrase “keeping in mind their respective mandate and the principle of non-discrimination”.

35. With regard to the recommendations in subparagraphs (d) and (e), which should be read together, his delegation, while endorsing the amendment to subparagraph (d) proposed by the Coordinator, would like further thought to be given to the wording of the two recommendations and wished, in particular, for the two subparagraphs to reflect the idea that the issue of amending the reporting template relating to victim assistance could be kept under review. That proposal was equally valid for the wider issue of national reports.

36. It would be useful to mention in subparagraph (f) that High Contracting Parties and observers could indicate if they wished to participate in a mechanism to match needs and resources, not only with respect to victim assistance but also in the wider context of Protocol V. This delegation was committed to ensuring that measures taken within the framework of article 8, paragraph 2, were compatible with other aspects of the Protocol.

37. **Mr. Banyai** (Austria) said that his delegation fully supported the statement made by the representative of Sweden on behalf of the European Union at the first meeting of the current Conference.

38. Providing assistance to victims, their families and affected communities was a priority for Austria, which had taken an active part in developing the plan of action on victim assistance under Protocol V. The recent visit to Geneva by the Austrian Minister for Foreign Affairs, Mr. Spindelegger, to introduce a report on victim assistance entitled “Voices from the Ground” illustrated that commitment.

39. The Austrian authorities recognized the need to identify, among the 61 States parties to the Convention and observers, those that had a significant number of victims and those that were donors, since it was important to match needs and resources. Austria took extremely seriously its responsibilities under action 3 of the plan of action, which established that each High Contracting Party should provide cooperation and assistance for victim assistance. In fact, under the Federal Act on Development Assistance, the needs of persons with disabilities should be taken into account in development cooperation activities. Austria was currently supporting physical rehabilitation projects by contributing to the Special Fund of the International Committee of the Red Cross in Africa and to victim assistance activities in Bosnia and Herzegovina.

40. **Ms. Kundurović** (Bosnia and Herzegovina) said that many victims and persons working on the ground, in particular members of NGOs working in the area of victim assistance in Bosnia and Herzegovina, could attest to the fact that peer support was

extremely valuable in the rehabilitation process and represented one of the best approaches. Bosnia and Herzegovina had adopted a new strategy on victim assistance for the period 2009–2019 and its victim database was now fully operational. Her delegation was fully satisfied with the recommendations made by the Coordinator on victim assistance in paragraph 6 of her report but was ready to collaborate with the other delegations in considering the proposed amendments.

41. **Mr. Praditsarn** (Observer for Thailand) said that victim assistance was a very important issue for the Thai authorities, who were working to move forward in that regard at the national, bilateral and regional levels. Although Thailand was not a party to the Convention, it cooperated with neighbouring countries on victim assistance.

42. Thailand supported the recommendations made by the Coordinator on victim assistance, in particular the recommendation on limiting undue reporting burdens contained in paragraph 6 (e).

43. **Mr. Khokher** (Pakistan) said that Pakistan, as a new State party to Protocol V, would like to be able to prepare its reports with the reporting template used previously. Introducing new templates could cause problems for new States parties. The aim should be to streamline reporting on the Convention and its Protocols. With respect to the recommendation contained in paragraph 6 (c) of the Coordinator's report, he considered that, as the Convention on the Rights of Persons with Disabilities and the Convention on Certain Conventional Weapons were two instruments that had been negotiated in completely different contexts and from totally different perspectives, it would not be appropriate to seek to place them within the same framework.

Thematic discussion on national reporting and the article 4 generic electronic template (CCW/P.V/CONF/2009/4 and 5)

44. **Mr. Markuš** (Slovakia), speaking as Coordinator on national reporting and the article 4 generic electronic template, introduced the report on national reporting (CCW/P.V/CONF/2009/4). Following consultations with delegations, it appeared that there was a need for further work on the draft guide to national reporting under Protocol V to the Convention. In that regard, he proposed amending the recommendation contained in paragraph 3 (c) of his report and inserting, after "referred to in paragraphs 24 to 28 of the final document of the First Conference of the High Contracting Parties", the phrase "and the guide to national reporting under CCW Protocol V in light of the experience from the reports to be submitted by 31 March 2010". With respect to the guide itself (CCW/P.V/CONF/2009/4/Add.1), he proposed deleting, in the first indent of point 2 of form A, the bullet point "From test ranges". The draft guide, thus amended, should be approved and made use of, then improved in 2010 in the light of the experience acquired.

45. With respect to the report on the article 4 generic electronic template (CCW/P.V/CONF/2009/5), he said that he was not proposing that the draft guide should be adopted (as indicated in paragraph 3) but approved. He expressed his deep appreciation to all the individuals, delegations, organs and bodies that had helped him in his work.

46. **Mr. Hoffmann** (Germany) said that Germany would contribute to the work of the meeting of experts by sharing its experience of reporting.

47. **The President** said he took it that the Conference wished to approve the recommendations contained in the Coordinator's report and the amendments proposed thereto.

48. *It was so decided.*

The meeting rose at 5.10 p.m.