
Meeting of the High Contracting 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, 25 November 2010, at 3 p.m.

Chairperson: Mr. Ganev (Bulgaria)

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

General exchange of views (*continued*)

1. **Mr. Demiralp** (Turkey) said he welcomed the fact that it had been possible, in the past year, to discuss the issue of cluster munitions in depth and that the two meetings of the Group of Governmental Experts held in April 2010 had successfully addressed a number of key issues relating to the effective implementation of the Convention, to which Turkey attached great importance. Given that the universality of the Convention remained a key objective, he also welcomed the success of the Sponsorship Programme, which represented a genuine collective effort on the part of the High Contracting Parties, and the work accomplished by the Steering Committee in 2010. Turkey encouraged the High Contracting Parties to report regularly under the compliance mechanism applicable to the Convention and its Protocols. It supported the Implementation Support Unit, which in just a year had already done much to promote the implementation of the Convention.

2. In view of the ground already covered by the Group of Governmental Experts, the time had come to rise above political differences and to give the Group a chance to achieve its objective, particularly since the positions of each party were now clear to all. He therefore wished to advise against renewed discussion of the very nature of the Group's mandate.

3. **Ms. Lendenmann** (Switzerland), noting that, with 113 High Contracting Parties, the goal of universality of the Convention was far from being reached, said she welcomed the efforts undertaken by many, including States and international and non-governmental organizations, to promote the universalization of the Convention and its Protocols, and also the work accomplished in that regard by the Coordinator of the Sponsorship Programme and the Geneva International Centre for Humanitarian Demining. She hoped that the Implementation Support Unit would be provided as soon as possible with the resources it required in order to become fully operational.

4. It was regrettable that, in 2010, the Group of Governmental Experts had been unable to reach a consensus regarding the adoption of a protocol on cluster munitions. While progress had been made during the negotiations, differences remained between those States willing to renounce such munitions and those that recommended limitations on their use. The draft protocol drawn up by the Group of Governmental Experts, which remained vague and imprecise, failed to include the immediate and substantial prohibitions sought on the use and transfer of such munitions; moreover, it extended the deadline set for the destruction of stockpiles and provided for transition periods of varying length, which suggested a lack of coherence. Such a draft left the way open for the use of certain cluster munitions that, as experience had shown, had an unacceptable humanitarian impact.

5. Nonetheless, Switzerland welcomed the progress achieved since the beginning of 2010 and the commitment demonstrated by a number of delegations and was willing to consider accepting a new mandate for the Group of Governmental Experts, provided that that mandate reflected unambiguously the genuine willingness of all High Contracting Parties to negotiate a new protocol.

6. **Ms. Liufalani** (New Zealand) said that her country was determined to work within the framework of the Convention towards the achievement of a significant outcome on cluster munitions that would meet the requirements of immediacy and complementarity with the Convention on Cluster Munitions and make a genuine difference to the humanitarian situation. While the text proposed by the Chairperson fell somewhat short of those aims, her delegation, not wishing to stand in the way of the conclusion of a satisfactory agreement, supported the proposed continuation of the work of the Group of Governmental Experts in 2011 for a further two weeks of meetings. It trusted that the

experts would have sufficient opportunity to consider each of the proposals that had been submitted.

7. **Mr. Hung Viet Do** (Observer for Viet Nam) said that Viet Nam, in conformity with its consistent policy of supporting general and complete disarmament and as a signatory to the Convention on Certain Conventional Weapons, supported the humanitarian purpose of that instrument, which it intended to ratify as soon as the necessary conditions were in place. The Government was already taking action in accordance with the provisions of the Convention and its Protocols, particularly the Protocol on Explosive Remnants of War (Protocol V).

8. Since the end of hostilities in Viet Nam, steps had been taken to map, mark and demine large areas of contaminated land, and a programme of action for the period 2010–2025, aimed at addressing the effects of unexploded bombs and mines and covering all aspects of mine action, had recently been adopted. However, the clearance of mines and bombs scattered over 6.6 million hectares of land, which represented one fifth of Vietnamese territory, was no easy task, and it was estimated that it would take fifty years and some \$10 billion to achieve that goal, in addition to the vast resources needed to assist almost 100,000 victims of unexploded ordnance. Viet Nam appreciated the assistance provided to it by many countries and stood ready to share its experience and offer its own assistance in bomb and mine action activities.

9. **Mr. Al-Taie** (Observer for Iraq) said that Iraqi territory was contaminated by 20 million anti-vehicle and anti-personnel mines and 50 million cluster munitions, to which many shepherds and farmers had fallen innocent victim and which hampered every project aimed at economic development or the construction of agricultural infrastructure. His Government appealed to the High Contracting Parties for assistance in clearing Iraqi soil. The Prime Minister had recently launched a comprehensive national initiative to clear mines and unexploded ordnance, and a bill was to be adopted providing for the clearance of 21 sites in the central region of the country and 14 sites in Maysan province. A study carried out by the Ministry of Labour and Social Affairs to establish the scope of the damage caused by mines and the number of mine victims had made it possible to provide victim assistance, notably in the form of easy-access loans, training and education with a view to social reintegration, and provision of hearing aids and wheelchairs.

10. His Government was taking all necessary measures to comply with the international instruments aimed at the prohibition of anti-personnel mines. It welcomed the discussions being held by the Group of Governmental Experts and the solutions proposed by the experts and reaffirmed the importance of the final document adopted at the conclusion of the Third Review Conference in 2006, particularly the plan of action to promote the universality of the Convention, which strengthened cooperation among States.

11. **Mr. Daryaei** (Observer for the Islamic Republic of Iran) said that international humanitarian cooperation conducted within the framework of the Convention could provide incentives for his country to consider becoming a party to the Convention and its Protocols. In addition to the numerous human, economic and social losses his country had suffered, the war with Iraq had left more than 20 million mines and items of unexploded ordnance originating in 17 different countries scattered over 4.2 million hectares of Iranian territory, particularly along the western border, making the Islamic Republic of Iran one of the most contaminated countries in the world.

12. A mine action centre had been established in the country, and more than \$8.6 million, which might otherwise have been used for national development activities, had been spent on demining operations covering 4.1 million hectares of land. The Islamic Republic of Iran, convinced that the humanitarian dimension of mine action should prompt States to set aside their political differences, was deeply dismayed that the international

community had offered neither humanitarian nor any other form of assistance — such as the provision of software for the Information Management System for Mine Action or other equipment — in that area and that the 17 countries that had supplied Iraq with mines had failed to provide the Islamic Republic of Iran with information on the technical characteristics of those devices in order to facilitate clearance operations. International support and cooperation with affected countries were the best means of contributing to the universality of the Convention and its Protocols.

13. **Mr. Manfredi** (Italy) said that the very existence of the Convention on Cluster Munitions, which 60 per cent of States had signed, was to be welcomed, since it sent a strong message that the use of such munitions in conflicts had unacceptable humanitarian consequences. However, it was regrettable that that instrument covered only 10 per cent of the global stockpile of cluster munitions. It was therefore essential that the Group of Governmental Experts should be able to continue to negotiate a protocol on cluster munitions within the framework of the Convention on Certain Conventional Weapons in order to bring the remaining 90 per cent of stocks under international regulation through a strict and legally binding regime that was acceptable to both States signatories to the Oslo Convention and those States that were not yet able to accede to it.

14. **Ms. Rahamimoff-Honig** (Israel) noted that in the Middle East, one of the most sensitive and volatile regions of the world, only eight States, including Israel, were parties to the Convention on Certain Conventional Weapons. In July 2010, the Government of Israel had endorsed a bill providing for the creation of a national demining authority, the text of which was under consideration by the parliament. Israel, as a country whose civilian population and military personnel were greatly affected by the use of improvised explosive devices, attached great importance to actions undertaken in relation to such devices. Her delegation appreciated the work carried out by the Coordinator on improvised explosive devices and welcomed the recommendations adopted with regard to that issue at the Twelfth Annual Conference of the High Contracting Parties to Amended Protocol II to the Convention, held the previous day. It considered that it would be beneficial to conduct an in-depth study of all aspects of the transfer and diversion of materials used in the preparation and activation of such devices.

15. While the extensive efforts made in the past three years to negotiate a protocol on cluster munitions had not yielded a successful outcome, significant progress towards consensus had been made, and the most recent draft text submitted by the Chairperson of the Group of Governmental Experts was a step in the right direction. Israel therefore supported the extension of the Group's mandate.

16. **Ms. Pleština** (Croatia) said that Croatia had had the misfortune to experience at first hand the effects of cluster munitions on the humanitarian situation and on development. Her Government therefore hoped that it would be possible to negotiate a protocol specifically addressing the humanitarian consequences of such weapons, notwithstanding Croatia's commitment to support the efforts made within the framework of the Convention on Cluster Munitions, which it had signed and ratified. However, it should be noted, as several speakers — the representatives of the European Union, Austria, Germany, Mexico and Norway — had pointed out, that the draft protocol under consideration fell short of the objectives set. The energy and financial resources expended on the work of the Group of Governmental Experts in the past three years could have been put to better use in addressing the specific problems posed by cluster munitions, particularly their humanitarian impact.

17. While the Convention on Certain Conventional Weapons remained a major multilateral instrument of international humanitarian law, the draft protocol as it stood offered no solutions. She therefore shared the view of the representative of Germany, who, in view of the current stasis, had proposed as a concrete initial step towards addressing

humanitarian concerns the immediate and total prohibition of all transfers of cluster munitions. Failing that, Croatia would be in favour of ending the negotiation process and leaving States to take decisions on mine action at the national level.

18. **Archbishop Tomasi** (Holy See) said that the Convention on Certain Conventional Weapons, as an instrument that served a humanitarian purpose, offered a framework within which it ought to be possible to respond to expectations regarding the protection of civilians during armed conflicts. The difficulty lay in the fact that it was almost impossible to find a balance between military considerations and humanitarian imperatives. Defence of national security interests could not serve as a justification for everything.

19. In that context, the work of the Group of Governmental Experts on the issue of cluster munitions had failed to address adequately the humanitarian problems that such weapons posed. His delegation considered that the draft text submitted by the Group's Chairperson fell far short of responding to the urgency reflected in the Group's mandate. The proposal to conclude an agreement restricting the transfer of cluster munitions was clearly of humanitarian interest; it would therefore be a pity not to pursue it. Given that the cost of armed conflicts, quite apart from their inestimable human cost, was exorbitant, prevention was indeed always better than cure. He wished to urge all High Contracting Parties to engage in discussions with a view to reforming and refining the mechanism established by the Convention, 30 years having now passed since its creation. The time had come to draw conclusions from the profound changes that had taken place in the area of disarmament in recent decades, and the 2011 Review Conference would provide the ideal opportunity to take the decisions necessary to strengthen the credibility of the Convention and its effectiveness in protecting the populations of all countries in situations of armed conflict.

20. **Mr. Thammavongsa** (Lao People's Democratic Republic) said that his country had recently organized the First Meeting of States Parties to the Convention on Cluster Munitions, held in Vientiane from 9 to 12 November 2010, which had concluded with the adoption of a political declaration and plan of action setting out 66 actions to be carried out in the coming years in order to facilitate the implementation of the Convention. As one of the countries most affected by cluster munitions, the Lao People's Democratic Republic attached great importance to the Convention and to the drafting of a new protocol on cluster munitions to the Convention on Certain Conventional Weapons. The Lao Government hoped that the protocol would enhance measures aimed at addressing the humanitarian impact of cluster munitions but noted with concern that the High Contracting Parties had not yet reached consensus on a draft. The text under consideration, dated 6 September 2010, did not reflect the urgent need to address the humanitarian impact of cluster munitions. However, the Lao People's Democratic Republic stood ready, as a party to both Conventions, to work in close collaboration with the High Contracting Parties to produce, as soon as possible, a draft protocol that was acceptable to all.

21. **Mr. de Macedo Soares** (Brazil) said that the Meeting of the High Contracting Parties provided an opportunity to work to ensure the continued and strengthened implementation of the Convention, which was an important legal instrument both in the area of arms control and in that of international humanitarian law. Together with the 1949 Geneva Conventions and the 1977 Additional Protocols thereto, the Convention on Certain Conventional Weapons constituted a corpus of fundamental law providing for the protection of civilians in armed conflict and, in certain circumstances, for the protection of combatants. Almost thirty years after it had been opened for signature in 1981, the Convention continued to evolve, allowing it to respond to the humanitarian challenges posed by advances in weapons technology.

22. Brazil attached great importance to the universalization of the Convention and its Protocols. Since instruments of international humanitarian law imposed constraints in

critical situations such as armed conflicts, their legitimacy and authority depended on their acceptance by all parties. The parliament of Brazil having recently approved Protocol V and amended article 1 of the Convention, in the coming months Brazil should become a party to the Convention and all its Protocols. A national committee responsible, inter alia, for supporting initiatives to raise awareness of international humanitarian law among the general public and the armed forces and in educational establishments had been set up in 2003.

23. International efforts to regulate, restrict or prohibit the use of certain conventional weapons should be undertaken within the framework of the Convention in order to ensure the engagement of High Contracting Parties that produced or possessed large stocks of such weapons. That was particularly important with regard to the negotiations on cluster munitions, which had been hampered by the fact that several High Contracting Parties were of the view that Protocol V already addressed the humanitarian concerns raised by the use of such munitions. A number of States, convinced, to the contrary, of the shortcomings of Protocol V in that regard, had undertaken to negotiate the Convention on Cluster Munitions, while others had preferred to pursue the treatment of the matter within the framework of the Convention on Certain Conventional Weapons.

24. Given that context, the preparation of a legally binding instrument that was compatible with the Convention on Cluster Munitions and was universally accepted remained feasible and would offer the best solution to the real and specific problem posed by cluster munitions. The two meetings held by the Group of Governmental Experts in 2010 had given hope that a positive outcome in that regard might be possible. Brazil was therefore in favour of extending the Group's mandate with a view to the conclusion of a sixth protocol, on cluster munitions. In that regard, one could not but question the speed with which certain like-minded groups had produced results and also the conformity of those quick results to the stated aims. War and its means were the worst kinds of societal dysfunction, and the establishment of relevant limitations and regulations was a long and difficult process.

25. **Ms. Silde** (Estonia) said that she welcomed the tireless efforts made by the Chairperson of the Group of Governmental Experts and the Friends of the Chairperson to negotiate an instrument on cluster munitions within the framework of the Convention on Certain Conventional Weapons. Estonia remained convinced that such an agreement, reflecting both military needs and humanitarian concerns, could contribute significantly to progress in tackling cluster munitions. In order to avoid a protracted drafting process, her delegation supported the extension of the mandate of the Group of Governmental Experts to 2011.

26. **Mr. Wilson** (Canada) said that his Government had always believed it possible, with sufficient will, to negotiate within the framework of the Convention a protocol on cluster munitions that would bind the major producer, user and possessor countries and also countries that, to date, had chosen not to accede to the Convention on Cluster Munitions. However, at the current stage of negotiations, following three years of intensive and difficult discussions, the differences in opinions were such that serious thought should be given to the advisability of pursuing that path, particularly in view of the forthcoming Review Conference.

27. His Government urged those States wishing to take specific action to address the humanitarian problems posed by cluster munitions and anti-personnel mines to accede, if they had not already done so, to the Convention on Cluster Munitions and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention). The latter instrument had been signed by more than 80 per cent of the world's States, those States being convinced that they could ensure their legitimate national defence without such destructive weapons, while

the Convention on Cluster Munitions, which had recently entered into force, had already been signed by 120 States, 46 of which had recently attended the First Meeting of States Parties in Vientiane.

28. While his delegation did not wish to oppose the general will concerning the renewal of the mandate of the Group of Governmental Experts, it did, however, believe that the new mandate must refer explicitly to the objective sought: the negotiation of a meaningful protocol within a specific time frame. At the same time, several proposals relating to the transfer of cluster munitions, particularly those submitted by Germany and Norway and supported by Mexico and New Zealand, merited careful consideration.

29. In order to be more credible, the Convention on Certain Conventional Weapons must produce tangible results, i.e., it must reduce swiftly the threats faced by populations worldwide. If, over time, the Convention became nothing more than a framework for discussion, both the time and the resources spent on it in the past 30 years would have been wasted.

30. **Mr. Van Donkersgoed** (Netherlands), clarifying his delegation's position regarding the renewal of the mandate of the Group of Governmental Experts, said that in the past three years the Netherlands had been actively engaged in the negotiations on the draft protocol on cluster munitions. While it was committed to the provisions of the Convention on Cluster Munitions and accordingly was in the process of destroying all its stocks of such weapons, it considered that the negotiation of an instrument within the framework of the Convention on Certain Conventional Weapons was of interest to those States not yet in a position to accede to the Convention on Cluster Munitions, provided that such an instrument contained strict prohibitions and restrictions that would lead to meaningful results on the ground.

31. While progress had been made, considerable disagreement remained with regard to a number of crucial issues. Since the negotiations could not continue indefinitely, the mandate of the Group of Governmental Experts should express more clearly the urgent need to address the humanitarian concerns raised by the use of cluster munitions. His delegation therefore encouraged the Meeting to entrust the Group with the task of negotiating a meaningful protocol on cluster munitions with a view to the submission of a draft text to the Review Conference in 2011. If no result was achieved, serious consideration should be given to ending the negotiation process.

32. **Mr. Kolarov** (Office for Disarmament Affairs) said that the United Nations Mine Action Team attached great importance to the regime established by the Convention on Certain Conventional Weapons and, in particular, by the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended (amended Protocol II), and Protocol V, and to the deliberations and negotiations that were in progress with regard to cluster munitions and anti-vehicle mines. It had followed closely the work carried out by the Group of Governmental Experts since the Third Review Conference in 2006 and, while recognizing the progress made by the Group in the past year, believed it necessary to revise the current text of the draft protocol so that it met the minimum standards required to address the humanitarian impact of cluster munitions.

33. The Team welcomed the fact that additional States had acceded to the Convention over the past year; however, continued efforts were needed to ensure the universality of that instrument. With that objective in mind, the members of the Team had participated actively in the implementation of the plan of action to promote the universality of the Convention and remained ready to pursue their activities in that area. The Team also encouraged the High Contracting Parties to submit their annual reports pursuant to the decision adopted by the Third Review Conference, since reporting, while voluntary, served as a means of building confidence among States and promoting compliance with the Convention.

34. Given that the Meeting would be taking decisions with regard to the Fourth Review Conference, the Team wished to recall the position of the United Nations that there was an urgent need to establish international norms applicable to mines other than anti-personnel mines, preferably through the negotiation of a new protocol. In that context, particular attention should be given to the humanitarian impact of the use of explosive weapons in populated areas, as highlighted in the recent report of the Secretary-General of the United Nations to the Security Council on the protection of civilians.

35. **Mr. Nash** (Cluster Munition Coalition) said that the four years of work on cluster munitions carried out within the framework of the Convention on Certain Conventional Weapons and the unresolvable differences hindering the progress of the negotiations in the Group of Governmental Experts were in marked contrast to the work undertaken in Vientiane at the beginning of November 2010 at the First Meeting of States Parties to the Convention on Cluster Munitions, a meeting that had been marked by a clear focus on humanitarian imperatives and the firm willingness of States to produce action-oriented outcomes and to make a real difference on the ground.

36. Noting that two thirds of High Contracting Parties to the Convention on Certain Conventional Weapons had acceded to the Convention on Cluster Munitions, he said it was unacceptable for those same States to support negotiations within the framework of the former instrument to allow, in certain cases, the use, production, transfer and stockpiling of cluster munitions, while at the same time condemning the use of such munitions in the declaration adopted at the First Meeting of States Parties to the Convention on Cluster Munitions in Vientiane.

37. The most recent text of the draft protocol drawn up by the Group of Governmental Experts established neither meaningful nor immediate prohibitions on cluster munitions – in fact, as several speakers had pointed out, the weapons that would be prohibited dated from before 1980 and were therefore likely to be obsolete and due to be withdrawn from arsenals in any case. Such a protocol, given the half measures for which it provided and the fact that its provisions were weaker than those of the Convention on Cluster Munitions, would have a negligible impact on the ground and would not tackle the scourge of cluster munitions. He urged all States represented at the Meeting of the High Contracting Parties to end negotiations on such a draft protocol, to accede to the Convention on Cluster Munitions and to adopt without delay national measures to restrict the use, production and transfer of those weapons, following the example of other States.

38. **Mr. Goose** (Human Rights Watch), referring to the issue of cluster munitions, said that the negotiations conducted by the Group of Governmental Experts over the past four years had failed to reconcile in any significant way the divergent views that, from the outset, had set those States calling for the complete prohibition of cluster munitions against those wishing to continue to use them, the latter States failing to find agreement even among themselves. The negotiations appeared to be doomed to failure and should without question be ended at the Review Conference in November 2011, whether or not agreement was reached on the text of a new protocol to the Convention on Certain Conventional Weapons in the meantime. It was clear from the most recent draft that the protocol would at best establish standards and regulations much weaker than those of the Convention on Cluster Munitions, thus encouraging the use of weapons known to cause unacceptable harm to civilians.

39. Such a protocol, rather than complementing the Convention on Cluster Munitions, would be in conflict with it. The argument that the negotiation of such an instrument should be pursued in order to persuade some of the major users and producers of cluster munitions to accede to it was weak: the parallel with amended Protocol II and the Ottawa Convention gave reason to believe, on the contrary, that those States would never sign a protocol on cluster munitions and would simply continue to use, manufacture and stockpile such

weapons. Nonetheless, it would be a positive step if some of those users and producers adopted at the national level the measures provided for in the draft protocol until unanimous support for a complete ban on cluster munitions could be achieved.

40. Human Rights Watch called on the High Contracting Parties to undertake, in 2011, a thorough review of the Protocol on Incendiary Weapons (Protocol III), which did not offer civilians sufficient protection against the use of certain incendiary munitions, particularly white phosphorus munitions.

41. **The Chairperson** said that since the Meeting had concluded its general exchange of views, it had thus completed its consideration of agenda item 7.

Consideration of the report of the work of the Group of Governmental Experts

(continued)

42. **The Chairperson**, recalling the terms of the mandate given by the 2009 Meeting of the High Contracting Parties to the Group of Governmental Experts in relation to the Group's negotiations on cluster munitions (CCW/MSP/2009/5, para. 40), invited comments on the work of the Group on that issue, noting that most delegations had already spoken on the subject during the exchange of general views.

43. **Mr. Khvostov** (Belarus) said that Belarus remained favourable to the idea of reaching an international agreement on the issue of cluster munitions through a single negotiation process, preferably within the framework of the Convention on Certain Conventional Weapons, since such an approach appeared to be the best way of taking into consideration the interests of all United Nations Member States. The negotiating mandate of the Group of Governmental Experts should be extended, and any future protocol should strike a balance between humanitarian considerations and national security needs, taking into account, to the greatest extent possible, the positions of the major producers and possessors of cluster munitions and the real financial and technical capacities of those States with a view to ensuring the effectiveness of the prohibitions for which it provided.

44. **Mr. Turcotte** (Canada) proposed that any mandate given to the Group of Governmental Experts by the 2010 Meeting — assuming that the Group's mandate was to be extended — should make clear that negotiations conducted within that framework would be focused on the elaboration of a protocol rather than a text of any other kind. That clarification would simply make explicit the understanding that had been shared by most delegations in the course of the work of the Group of Governmental Experts.

45. **Mr. Hoffmann** (Germany), recalling the request made by the head of his delegation for the text proposed by the delegation during the general exchange of views with regard to the mandate of the Group of Governmental Experts to be issued as an official document of the Meeting, asked when the secretariat expected to be able to distribute that document and when the Chairperson planned to open the debate on that issue.

46. **Mr. Clark** (United Nations Mine Action Service), speaking on behalf of the United Nations Mine Action Team, said that, while noting the progress made with regard to the draft protocol (CCW/GGE/2010-II/WP.2), particularly as far as definitions, general prohibitions and restrictions and the technical annexes were concerned, the Team continued to believe that care should be taken to avoid allowing the use of certain cluster munitions proven to present a significant threat to civilians and personnel tasked with clearing explosive remnants following conflicts.

47. In that regard, it was necessary to examine further the implications of technical annexes A and B of the draft protocol in relation to articles 1 and 4, respectively. Paragraph 5 of technical annex A established that the protocol would not apply to cluster munitions that incorporated "a mechanism or design which, after dispersal, results in no more than 1

per cent unexploded ordnance across the range of intended operational environments”; however, the draft text failed to explain how and by whom those results would be measured or validated. Moreover, every type of cluster munition proven to present a significant post-conflict hazard had consistently demonstrated a failure rate well above 1 per cent. The new provisions of technical annex B indicated that the prohibitions set out in article 4, paragraph 2, would not apply to cluster munitions containing two or more initiating mechanisms if at least one of those mechanisms functioned as a self-destruction mechanism (para. 1 (c)), thus appearing to prohibit the use of BLU-97 submunitions. That was important, because those submunitions, a significant number of which failed to function on impact, were the deadliest items of unexploded ordnance in post-conflict situations, owing in part to their combined incendiary, penetration and fragmentation effects. In addition, they contained two initiating mechanisms, and, if neither mechanism functioned as intended, the munition was left in an extremely unstable state in which it could be activated by the slightest movement. Given those facts, any final text allowing the use, production and transfer of submunitions such as BLU-97 would be inconsistent with the goal of a protocol that addressed “the humanitarian impact caused by cluster munitions”.

48. **The Chairperson** noted that delegations needed time to consult on the mandate to be given to the Group of Governmental Experts in relation to the issue of cluster munitions, particularly in the light of the proposals made by the delegations of Canada, Germany and others. The document containing the proposal by the delegation of Germany was being translated and prepared for issue and would be distributed shortly with a view to its consideration during the consultations. The consideration of agenda item 10 thus remained to be concluded.

Status of implementation of and compliance with the Convention and its Protocols

49. **The Chairperson** recalled that, at the Third Review Conference, the High Contracting Parties had established a mechanism for monitoring compliance with the provisions of the Convention and all its Protocols for the purposes indicated in paragraph 1 of annex II to the final document of the Conference (CCW/CONF.III/11 (Part II)). They had also decided, in paragraph 5 of the annex, to establish a mechanism for communicating information on several issues: dissemination of information on the Convention and its Protocols to their armed forces and to the civilian population; steps taken to meet the relevant technical requirements of the Convention and its Protocols and any other relevant information pertaining thereto; legislation related to the Convention and its Protocols; measures taken in the area of technical cooperation and assistance; and other relevant matters. The High Contracting Parties had further decided (paras. 7 and 8) to take all appropriate steps, including legislative, penal and other measures, to prevent and suppress violations of the Convention or any of its Protocols committed on territory under their jurisdiction or control. In addition, they had established a pool of experts whose assistance could be requested by any High Contracting Party wishing to address any concern relating to the fulfilment of its legal obligations under the provisions of the Convention or any of its Protocols by which that High Contracting Party was bound (paras. 10 and 12).

50. Lastly, at their 2007 Meeting, the High Contracting Parties had taken further decisions to strengthen the compliance mechanism by including the issue of the status of implementation of and compliance with the Convention and its Protocols in the agenda of their annual meetings, adopting reporting forms for submission of their national reports and also adopting a registration form for inclusion of national experts in the pool of experts (CCW/MSP/2007/5, paras. 31, 32 and 34).

51. To date, 26 High Contracting Parties had submitted their national reports pursuant to the decision on the compliance mechanism, which, while not legally binding, had nevertheless been adopted unanimously. It was extremely important for all High

Contracting Parties to comply with the provisions of the Convention and its Protocols and to resolve to apply those provisions in full and to consult and cooperate with one another with a view to fulfilling effectively their obligations under the Convention and the annexed Protocols by which they were bound, thus promoting compliance with those instruments.

52. **Ms. Krieva** (Latvia) said that her country, as a Party to Protocol V since 16 March 2010, viewed accession to that instrument as a means of strengthening international humanitarian law and supporting efforts to ensure the universalization of the Convention and its Protocols. The provisions of the Protocol did not cover the explosive remnants of war contaminating certain areas of Latvia, since those remnants dated from the first and second world wars or had been left by the Soviet army long before the Protocol's entry into force. The problem was thus not new to Latvia, which in the past 20 years had implemented comprehensive measures to reduce, to the greatest extent possible, the dangers posed to civilians by explosive remnants of war. Those measures notably included the clearance and destruction of explosive remnants of war remaining on the ground or at former Soviet munitions depots or firing ranges. The police authorities were working closely with the Latvian Armed Forces to ensure the protection of civilians against explosive remnants of war and the clearance and destruction of such remnants. Latvian teams had participated in international operations to destroy such objects, and Latvia had taken part in several projects to clear and destroy unexploded ordnance and to offer medical rehabilitation to mine victims under the North Atlantic Treaty Organization (NATO) Partnership for Peace programme. In 2000, a special academy had been established in cooperation with partner States and the Latvian Armed Forces with the aim of offering training in the destruction of explosive munitions to law enforcement and military personnel from Latvia and other States, including personnel involved in international operations. Latvia would continue to work with other High Contracting Parties to strengthen the implementation and promote the universalization of Protocol V, which was a key instrument of international humanitarian law.

53. **Mr. Gómez Camacho** (Mexico) said that the inter-institutional commission established in Mexico in 2009 to analyse the content and implications of treaties to which Mexico was not party with a view to possible accession to those treaties had concluded, with regard to amended Protocol II and Protocol V to the Convention on Certain Conventional Weapons, that it was not possible for Mexico to consent to be bound by those instruments in the immediate future, not because of any substantive issue or any incompatibility between the interests of Mexico and the objectives of the Convention but simply because it was necessary to determine the extent to which the Protocols could be applied in specific ways that were consistent with national legislation.

54. The fact that Montenegro, Madagascar and Qatar had recently declared their consent to be bound by Protocol II, thus bringing the number of High Contracting Parties bound by that instrument to 93, which was the same as the number of States bound by amended Protocol II, demonstrated that the international community as a whole was favourable to the regulation of anti-personnel mines and similar devices and that international law offered at least three complementary instruments providing for such regulation. His delegation was therefore not convinced of the need to terminate Protocol II. However, that issue should be included in the agenda of the Review Conference in 2011 in order to give all High Contracting Parties, including those not bound by Protocol II, the opportunity to consider it.

55. **Ms. Docherty** (Human Rights Watch), referring to the issue of incendiary weapons, said that Protocol III as currently drafted could not achieve its intended purpose of protecting civilians from the effects of such weapons. Human Rights Watch had highlighted in a paper distributed to Meeting participants the legal loopholes and gaps in Protocol III that allowed the use of certain incendiary munitions in some circumstances.

56. Protocol III presented two major problems: first, the definition of incendiary weapon was based on whether a munition was “primarily designed” to set fire to objects or to cause burn injury to persons; it excluded munitions designed for smokescreening, illuminating or marking targets. Some States argued that certain munitions, particularly white phosphorus munitions, which caused horrific injuries, fell outside that definition because they were dual-use munitions. Regardless of the purpose for which such munitions were primarily designed, they should be encompassed by any instrument that sought to protect civilians from the effects of incendiary weapons. Secondly, the regulations established by Protocol III with regard to surface-launched incendiary weapons were weaker than those applicable to air-dropped munitions. Yet surface-launched incendiary munitions also had indiscriminate effects: artillery shells, for example, could disperse white phosphorus over an area with a radius of 125 metres. In order to avoid the humanitarian costs associated with such weapons, restrictions on the use of surface-launched incendiary weapons, particularly in civilian areas, should be strengthened. Those inadequacies should be addressed as part of a thorough review of the status and operation of Protocol III. The Fourth Review Conference offered an opportunity for such a review, which should be carried out with a view to amending the Protocol by the end of 2012.

57. **Mr. Turcotte** (Canada) thanked the representative of Human Rights Watch for the document on Protocol III and incendiary weapons that had been distributed to Meeting participants. His delegation would study the document carefully and submit it to the Department of National Defence and the Canadian Forces for consideration.

58. **Mr. Abdillahi** (Djibouti) assured the Bureau of his country’s support for the work of the Meeting of the High Contracting Parties. He expressed his appreciation to Human Rights Watch for the document distributed to participants; the ideas set out in the document echoed the concerns of Djibouti regarding Protocol III, and Djibouti intended to raise those concerns during the regional meetings to be held in Africa.

59. **The Chairperson** said that the Meeting of the High Contracting Parties had thus concluded its consideration of agenda item 9.

The meeting rose at 5.25 p.m.