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2003 session  
Geneva, 27 and 28 November 2003

## SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 27 November 2003, at 10 a.m.

Temporary Chairman: Mr. ORDZHONIKIDZE (Director-General of the  
United Nations Office at Geneva and  
Secretary-General of the Conference on  
Disarmament)

Chairman: Mr. SOOD (India)

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The meeting was called to order at 10.30 a.m.

#### OPENING OF THE MEETING

1. The TEMPORARY CHAIRMAN declared open the 2003 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.

#### CONFIRMATION OF THE NOMINATION OF THE CHAIRMAN OF THE MEETING

2. The TEMPORARY CHAIRMAN reminded the participants that at their 2002 Meeting, the States parties had decided to redesignate Mr. Sood of India as the Chairman of the 2003 Meeting, and invited them to confirm that decision.

3. It was so decided.

4. Mr. Sood (India) took the Chair.

5. The CHAIRMAN noted that the 2003 Meeting had been convened as a result of a decision of the 2002 Meeting of the Parties. Moreover, the open-ended Group of Governmental experts established by the Second Review Conference had completed its work within the framework set out in the Final Declaration of the Second Review Conference (CCW/CONF.II/2). It had been mandated to address the issues of explosive remnants of war and mines other than anti-personnel mines. The Final Declaration had also called for work on possible options to promote compliance with the Convention and its protocols, as well as small-calibre weapons and ammunition. The 2002 Meeting had decided that the Working Group on Explosive Remnants of War and the Working Group on Mines Other than Anti-Personnel Mines should continue their work in 2003.

#### ADOPTION OF THE AGENDA (CCW/MSP/2003/1)

6. The CHAIRMAN said that, since the Meeting had before it a decision on a legally binding document in the form of a new protocol to the Convention, the secretariat had advised the establishment of a Credentials Committee. Consequently, he suggested the addition of a new agenda item to be entitled "Election of a Chairman and Vice-Chairmen of the Credentials Committee and appointment of the Credentials Committee", as well as a subsequent item entitled "Report of the Credentials Committee". He also suggested that item 11 on the provisional agenda should be reworded to read "Adoption of the report of the meeting".

7. The agenda was adopted as amended.

#### CONFIRMATION OF THE RULES OF PROCEDURE (CCW/CONF.II/PC.1/1, annex II)

8. The CHAIRMAN pointed out that the 2002 Meeting of the States Parties had adopted the rules of procedure used by the Second Review Conference (CCW/CONF.II/PC.1/1, annex II). While some of the rules of procedure were not relevant to a short meeting, he suggested that the present Meeting should broadly be guided by the rules that had guided the work of the Second Review Conference, applying its own good judgement and cooperative spirit to any situations that might arise. It was his understanding that they would be applied, inter alia, in the light of

the statement made by the President of the Second Review Conference that “with regard to rule 34 of the rules of procedure, it is affirmed that, in the deliberations and negotiations relating to the Conventions and its annexed protocols, high contracting parties have proceeded on the basis of consensus and no decisions have been taken by vote”.

9. It was so decided.

#### CONFIRMATION OF THE NOMINATION OF THE SECRETARY-GENERAL OF THE MEETING

10. The CHAIRMAN, referring to rule 14 of the rules of procedure, said his consultations had indicated that there was agreement to appoint Mr. Vladimir Bogomolov, Political Affairs Officer in the Geneva Branch of the Department of Disarmament Affairs, as Secretary-General of the Meeting. He took it that it was the wish of the Conference to appoint Mr. Bogomolov to that office.

11. It was so decided.

#### ELECTION OF VICE-CHAIRMEN

12. The CHAIRMAN drew attention to the fact that, as in 2002, the Meeting of States Parties was an abridged version of a review conference. Given the shortness of the meeting, he suggested that it should operate with a streamlined bureau consisting of the Group Coordinators and the coordinators of the two working groups, in addition to himself, as in 2002, on the understanding that no precedent would thereby be set for future meetings of the States parties.

13. It was so decided.

#### ELECTION OF THE CHAIRMAN AND VICE-CHAIRMAN OF THE CREDENTIALS COMMITTEE AND APPOINTMENT OF THE MEMBERS OF THE CREDENTIALS COMMITTEE

14. The CHAIRMAN said that Mr. Faessler of Switzerland had been proposed for the post of Chairman of the Credentials Committee, and Ms. Makupula had been proposed as Vice-Chairman. Furthermore, the representatives of China, Senegal and The former Yugoslav Republic of Macedonia had been proposed as members of the Committee. He took it that the Meeting wished to elect those proposed to the Credentials Committee.

15. It was so decided.

#### MESSAGE FROM THE SECRETARY-GENERAL OF THE UNITED NATIONS

16. At the invitation of the President, Mr. ORDZHONIKIDZE (Director-General of the United Nations Office at Geneva and Secretary-General of the Conference on Disarmament) read out a message from the Secretary-General of the United Nations.

17. In his message, the Secretary-General said that, while the humanitarian principles underlying the Convention were timeless, its relevance had if anything grown since 1980, most recently through the amendment of article 1 to cover internal armed conflicts. He welcomed the fact that the amended article would enter into force in May 2003, and urged more States to ratify it.

18. Full implementation of the Convention and universal adherence to it were particularly vital where explosive remnants of war and mines other than anti-personnel mines were concerned. The meetings of the Group of Governmental Experts over the past year had helped to overcome the many technical and other complexities involved in addressing those issues. He called on all States parties to redouble their efforts to protect humanitarian personnel and civilians from the effects of mines and explosive remnants of war.

#### ADOPTION OF FINANCIAL ARRANGEMENTS FOR THE MEETING

19. The CHAIRMAN noted that at their 2002 Meeting, the States parties had considered cost estimates for the present meeting (CCW/MSP/2002/2, annex II). According to information provided by the secretariat, some savings had been made in the preparations for the 2003 Meeting thanks to a reduction in the volume of documentation, and the actual costs were expected to be slightly lower than the initial estimates. The actual figures would not be available, however, until after the Conference had ended. He took it that the Meeting wished to approve the cost estimates as presented.

20. It was so decided.

#### REPORT OF THE WORK OF THE GROUP OF GOVERNMENTAL EXPERTS OF THE STATES PARTIES TO THE CONVENTION (CCW/GGE/VI/2)

21. The CHAIRMAN pointed out that, taken together with the reports of its fourth and fifth sessions (CCW/GGE/IV/1 and CCW/GGE/V/3), the Group's latest report provided a complete account of its work during 2003. It also contained recommendations for future work, suggesting that the Meeting of States Parties should: (a) adopt the draft protocol on explosive remnants of war (annex II of the report); (b) adopt the proposed mandate for future work on the issue of explosive remnants of war (annex III of the report); and (c) adopt the proposed mandate for future work on the issue of mines other than anti-personnel mines (annex IV of the report). The Group also recommended that the Chairman of the Meeting should hold consultations in the period leading up to the 2004 Meeting on possible ways and means of promoting compliance with the Convention and its protocols (paragraph 25 of the report).

22. He pointed out that the square brackets around the proposed mandate for future work on explosive remnants of war (annex III) had since been removed, indicating that the recommendation was now fully agreed. The Group's report, which would be annexed to the report of the present Meeting, would guide the States parties in their work during 2004 and help reinforce the international norm represented by the Convention and its protocols.

## CONSIDERATION OF THE REPORT OF THE GROUP OF GOVERNMENTAL EXPERTS AND GENERAL EXCHANGE OF VIEWS

23. Mr. TREZZA (Italy), speaking on behalf of the European Union, the acceding countries Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia and the associated countries Bulgaria and Romania, expressed satisfaction at the successful outcome of the negotiations on a protocol on explosive remnants of war, which had long been an objective of the Union. The resulting compromise, while not fully satisfactory for everyone, was the best that could be reached. There was now a need for further work on possible preventive measures aimed at improving the design of specific types of munitions, including submunitions, as well as the application of international humanitarian law with respect to such munitions. He also welcomed the approval of the proposed mandate for work on mines other than anti-personnel mines, on which a legally binding instrument should be the objective, and called for further discussion on identification of best practices with regard to sensitive fuses, together with mines laid outside fenced and marked areas. Lastly, he looked forward to consultations on possible ways and means of promoting compliance with the Convention and its protocols, expressing support for an overall mechanism for verifying compliance and thus enhancing the credibility of the instruments.

24. Mr. CHUNG (Republic of Korea) announced that his Government attached great importance to the Convention, and had recently accepted amended article 1. He was pleased that agreement had been reached on a protocol on explosive remnants of war, which would help to strengthen the viability of the Convention. He pointed out that encouraging the faithful implementation of generic preventive measures was preferable to seeking additional requirements in relation to specific preventive measures. He also welcomed the decision to continue work on mines other than anti-personnel mines in 2004, noting that his country was a sponsor of the proposal that such mines should be detectable and that remotely delivered mines should have self-destruction or self-neutralization mechanisms and back-up self-deactivation features.

25. Mr. MARKOTIĆ (Croatia) expressed full support for the new protocol on unexploded remnants of war, though he would have preferred to see provisions assigning special responsibility to the user for clearing such remnants, issuing warnings to civilians and providing risk education. Nevertheless, the protocol would have major positive consequences in alleviating dangers, especially those faced by the civilian population. He also welcomed the proposed mandate for work on mines other than anti-personnel mines in 2004, while urging support for the Danish-United States proposal for further developing the provisions contained in Amended Protocol II.

26. Mr. LEVY (Israel) said that the new protocol on explosive remnants of war marked substantial progress towards shared global humanitarian objectives, as part of a long and significant process. He was sure that the same spirit of good faith and determination would guide work on mines other than anti-personnel mines in 2004. The settlement of issues relating to explosive remnants of war could serve as an important confidence-building measure in a post-conflict situation, and therefore the protocol should not prevent the parties in such a situation from concluding appropriate arrangements in keeping with international law. The provision of assistance and cooperation could not be imposed on one particular party to a conflict, and he emphasized that the expressions “when appropriate”, “as soon as feasible”,

“where feasible” and “in a position to do so” in the protocol were subject to evaluation by the State party requested to provide assistance or perform activities related to explosive remnants of war in post-conflict situations. It was also his understanding that the extent and scope of assistance to be provided in such circumstances should remain a matter for the sovereign interpretation of the State concerned.

27. Mr. HORUMBA (Romania) said that his country had ratified the amendment to article 1 of the Convention and adopted Amended Protocol II and Protocol IV. He commended the Group of Governmental Experts on its achievements, noting that the adoption of the protocol on explosive remnants of war would add a further instrument to efforts to deal with conventional explosive devices and aid in post-conflict reconstruction. Since an instrument on mines other than anti-personnel mines was vital to complete the international legal framework governing conventional explosive devices in armed conflicts, he fully supported continued efforts towards the development of such an instrument.

28. Mr. HYNES (Canada) said that the protocol on explosive remnants of war would constitute a concrete, practical response to suffering all over the world. He urged speedy ratification to enable the protocol to enter into force, as well as efforts by States parties to develop appropriate consultative mechanisms and reporting procedures which would facilitate cooperation in working towards the objectives of the protocol. They must also now turn with greater focus to important questions regarding specific munitions, and particularly cluster munitions - preventive measures to minimize the creation of explosive remnants of war, and the application of international humanitarian law to protect civilians. The time had also come to make real progress in addressing humanitarian issues related to anti-vehicle mines, which could be the subject of a sixth protocol to the Convention given sustained commitment and industry.

29. Mr. SHAW (Australia) said that the proposed protocol on explosive remnants of war represented a significant achievement in addressing humanitarian tragedies and demonstrating the dynamic and flexible nature of the Convention. He highlighted the importance of articles 3 and 4 and the technical annex. His country considered that it was for a party receiving a request for assistance to decide whether such assistance was appropriate. The mandate for work in 2004 on mines other than anti-personnel mines was another major achievement, and should lead to recommendations for submission to the next Meeting of States Parties. Australia was a sponsor of the Danish-United States proposal on the subject, and also contributed to ongoing discussions, including on the application of international humanitarian law. He drew attention to Australia's working paper submitted to the Group of Governmental Experts in 2002 (CCW/GGE/III/WP.6), and called for serious examination of whether technical improvements to specific munitions, and especially submunitions, could reduce their failure rates. Finally, he welcomed the forthcoming entry into force of the amendment to article 1 of the Convention, and called for further ratifications.

30. Mr. FAESSLER (Switzerland) announced that his country should shortly be ratifying the amendment to article 1 of the Convention. Welcoming the balance achieved in the work of the Group of Governmental Experts between military interests and humanitarian needs, he expressed satisfaction that the protocol on post-conflict measures was legally binding and applicable to both international and non-international armed conflicts, even though his country would have preferred a more ambitious instrument. Articles 3 and 4 offered hope for the speedy removal and elimination of explosive remnants of war; article 9 referred to generic preventive measures,

whose importance could not be overemphasized, but he reiterated the importance his country also attached to preventive technical measures for certain types of munitions, especially submunitions. He welcomed the mandate proposed for further work on such measures, as well as the mandate on mines other than anti-personnel mines, and announced that his country had become one of the sponsors of the Danish-United States proposal on such mines. He also welcomed the Group's recommendations for efforts to promote the effective application of the Convention and its protocols.

31. Mr. JAKUBOWSKI (Poland) reconfirmed his country's support for humanitarian law and the protection of the innocent from the indiscriminate effects of certain conventional weapons. Welcoming the finalization of the protocol on explosive remnants of war, he commended the efforts which had led to consensus, and restated support for the early commencement of negotiations on a protocol to deal with mines other than anti-personnel mines, as a further contribution to the pursuit of the goals set out in the Convention.

32. Mr. THANATI (Albania) announced that his country had decided to join the list of sponsors of the proposed protocol on mines other than anti-personnel mines, in view of the serious potential consequences of their use during armed conflicts and above all after them, and urged support for the proposed mandate for work on that topic during 2004.

33. Mr. ANTONOV (Russian Federation) said that his country would shortly complete the process of ratifying Amended Protocol II, and was already complying with it. He called for more active cooperation with States that had yet to accede to the Convention and its protocols. Proposals for enhancing the impact of those instruments should be evaluated using three criteria: balance between humanitarian, military and financial interests, prospects for practical implementation by States and their ability to help resolve genuine humanitarian problems. Consensus should remain the foundation of work in that regard. The balance to which he referred was apparent in the newly completed protocol on explosive remnants of war, and he looked forward to productive work on mines other than anti-personnel mines, for which careful and consistent examination and comprehensive analysis was a prerequisite. The issue of compliance with the Convention and its protocols should also be pursued, through the development of a set of realistic and non-intrusive measures of a preventive nature.

34. Mr. KRIEKOURIS (Greece) announced that his country had recently become a party to the Ottawa Convention. Welcoming the work that had been accomplished during the past year, he emphasized the need to reconcile the military uses of mines other than anti-personnel mines with humanitarian concerns, and said that Greece had joined the sponsors of the Danish-United States proposal.

35. Mr. HU (China) said that much had been achieved since the signing of the Convention, whose growing universality would give it a more and more significant role in the field of arms control and humanitarianism. He welcomed the forthcoming entry into force of the amendment to article 1 of the Convention, and called for more States to ratify it. The new protocol on explosive remnants of war constituted a practical and balanced outcome of recent work, addressing humanitarian problems in a relatively comprehensive way, but was not completely satisfactory: China considered that users should bear more and stricter obligations in relation to



the clearance of such remnants. There was still a wide divergence of views on the issue of preventive measures aimed at improving the design of specific types of munitions, and priority should be given to encouraging further ratifications of the protocol and its effective implementation.

36. On the subject of mines other than anti-personnel mines, it was vital to strike the right balance between humanitarian concerns and legitimate military needs, and to bear in mind differences in countries' economic and technological capabilities. Proposals on the detectability and self-destruction or self-deactivation of anti-vehicle mines would present many countries with serious difficulties, but he reaffirmed China's resolve to explore further options.

37. Mrs. AUER (Austria) announced that her country had completed ratification of the amendment to article 1 of the Convention. She welcomed the conclusion of the protocol on explosive remnants of war, which addressed the corrective side of the problem, and stressed the need to turn now to the preventive side by developing weapons-specific measures to improve the reliability of munitions. She hoped that it would soon be possible to agree on a negotiating mandate on that topic, and meanwhile looked forward to serious progress. Further work was also needed on the adequacy on international humanitarian law and its implementation, in parallel to work on mines other than anti-personnel mines.

38. Mr. VALLE FONROUGE (Argentina) said that his country had embarked on ratification of the amendment to article 1 of the Convention, and urged others to do likewise. He pointed out that the establishment of measures for verifying compliance with the Convention should not place a financial burden on the States parties. He looked forward to the application of arrangements for assistance and cooperation to promote the implementation of the new protocol on explosive remnants of war, which would go far towards broadening the scope of application of international humanitarian law. He also expressed support for the proposed mandate relating to mines other than anti-personnel mines, and readiness to work towards a legally binding instrument in that field, which must deal with the challenge posed by the use of such devices by non-State actors. His country was engaged in the destruction of its stockpiles of anti-personnel mines, and had assisted with mine clearance operations in various countries.

39. Mr. ANGELET (Belgium) announced that his country had joined the list of sponsors of the Danish-United States proposal on mines other than anti-personnel mines, and would work hard for a new instrument on the subject.

40. Mrs. INOUCHI (Japan) said that her country looked forward to the further strengthening of the Convention and its protocols. It wished to place on record its understanding of article 7 of the protocol on explosive remnants of war as follows. Paragraph 1 confirmed, in a generic manner, the right of a State to seek and receive assistance, where appropriate, from any other States and relevant international organizations and institutions in dealing with the problems posed by existing explosive remnants of war, and thus was not linked to the question of which State or who had used explosive ordnance that had become explosive remnants of war, or had abandoned explosive remnants of war. In that context paragraph 2 provided that a high contracting party "in a position to do so" should provide assistance, and the question of whether a high contracting party was "in a position to do so" should be decided by that high contracting

party; a high contracting party “in a position to do so” should provide assistance as necessary and feasible. Nothing in the protocol was intended to prejudice arrangements between high contracting parties, consistent with international law, relating to the settlement of armed conflicts.

41. Japan was pleased with the mandate for work on mines other than anti-personnel mines in 2004, as one of the sponsors of the Danish-United States proposal. It had done its utmost to address humanitarian concerns arising from armed conflicts by providing various types of assistance, and remained committed to such activities.

42. Mr. BENITEZ VERNON (Cuba) said that, while his country had always supported the adoption of a legally binding instrument on explosive remnants of war, the protocol recommended by the Group of Experts displayed major shortcomings in the eyes of most of the international community, especially the countries most affected by the problem. Cuba had argued for less ambiguous wording in articles 3 and 7, believing that the main responsibility for clearing, removing and destroying explosive remnants of war should lie with the party which had generated them, even in cases where it did not exercise control over the area. Nevertheless, the new protocol constituted a major step forward at a time when multilateralism was especially important. He also welcomed the mandate proposed for future work on mines other than anti-personnel mines, while considering that the issue was already covered by the provisions of Amended Protocol II, and that the adoption of a new instrument would only weaken the Convention and Amended Protocol II. The benefits of the technical improvements being proposed in relation to self-destruction and self-deactivation had not been clearly demonstrated, and were in any case within the reach of only a small number of countries.

43. Anti-personnel mines formed part of the defensive strategy of Cuba, which also fully supported humanitarian efforts to mitigate the effects of the indiscriminate use of all mines. It had provided assistance to mine victims in many countries. It had never exported anti-personnel mines, and stood ready to play an active part in negotiations aimed at a total ban on transfers of mines of all types.

44. Mr. DA SILVA (Brazil) welcomed the successful outcome of the work of the Group of Governmental Experts in 2003. During the work on explosive remnants of war, he had expressed the view that the protocol should create legal responsibilities and build on existing obligations. He had also strongly supported the principle that responsibility for clearance of unexploded ordnance should fall to the user, as well as an obligation to provide technical, material and financial assistance, and that the United Nations should have a central role in the implementation of the protocol. The protocol recommended by the Group of Experts was to be welcomed despite its shortcomings, while such aspects as the transfer of technology should be highlighted in the future discussions on technical solutions aimed at improving the self-destructiveness and detectability of specific types of munitions, bearing in mind humanitarian considerations.

45. He also welcomed the growing consensus on the need to address the risks posed by mines other than anti-personnel mines, and said that questions regarding the discharge of the obligations contained in the Convention and protocols should be resolved through dialogue and cooperation among States parties, without resorting to contentious and discriminatory measures such as fact-finding missions.

46. Mr. CUMMINGS (United States) said that, as previously indicated, he considered that work on explosive remnants of war was better conducted in a political than in a legal framework. However, given the preferences of others and the importance of the Convention as a humanitarian instrument, he had not stood in the way of the development of a protocol. He wished to point out that the mandate under which the protocol had been prepared referred to post-conflict remedial measures, and that the time frame for action under most of its articles was the period following the cessation of active hostilities. That was the case in particular for article 3, relating to the responsibility of States in control of affected territory to clear, remove or destroy explosive remnants of war. Decisions on actions to be taken under articles 3 to 9 were to be made by the State concerned on the basis of its own assessment of the circumstances at the time, and of its response to formulations such as “in a position to do so” and “where appropriate”. Furthermore, it was the parties to an armed conflict themselves which would be best placed to determine how responsibilities should be apportioned, and nothing in the protocol would preclude or prejudice past or future arrangements related to the settlement of such conflicts, or related assistance. A similar understanding formed part of the negotiating record associated with article 5 of Amended Protocol II.

47. Equally, with respect to article 7, the phrases “where appropriate” and “in a position to do so”, as well as the reference to non-parties, indicated that each State’s discretion in matters of assistance was maintained. Concerning the reference to reporting in article 10, paragraph 2 (b), he understood that, as had been confirmed from the Chair, such a reporting requirement was not instituted by the protocol but would be considered at the first conference of the Parties. Great care had been taken in drafting the protocol to identify its scope and make it sufficiently adaptable to strike the delicate but critical balance between humanitarian and security considerations.

48. He expressed appreciation for the contributions that had been made in the past year to discussions on the issue of mines other than anti-personnel mines, and invited other States to join the sponsors of the Danish-United States proposal and take advantage of the accumulated momentum in order to secure the adoption of a new protocol to the Convention on all anti-vehicle mines. Lastly, he welcomed the fact that the amendment to article 1 of the Convention would soon enter into force and further the humanitarian aims of the Convention.

49. Mr. FORSTER (International Committee of the Red Cross) expressed satisfaction at the forthcoming entry into force of the amendment to article 1 of the Convention, and urged all States that had not yet ratified it to do so. He also welcomed the achievement of States parties to the Convention in concluding negotiations on a new protocol on explosive remnants of war, the first international treaty to require the parties to an armed conflict to clear all unexploded and abandoned ordnance that threatened civilians once fighting was over. While he would have preferred stronger wording in a number of the provisions, the protocol was valuable in laying down vital rules for prompt clearance, the sharing of information and the placing of warnings for civilians. It also provided clear indications of what needed to be done to address the problems of communities currently affected by explosive remnants of war. He called on all States to work speedily towards ratification of the protocol, promising his organization’s contribution to that end. He looked forward to further progress on such issues as anti-vehicle mines and submunitions during 2004.

The meeting rose at 1.05 p.m.