

2004 session  
Geneva, 18 and 19 November 2004

## SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 18 November 2004, at 3.20 p.m.

Chairperson: Mr. MARKOTIĆ (Croatia)

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF THE REPORT OF THE WORK OF THE GROUP OF GOVERNMENTAL EXPERTS AND GENERAL EXCHANGE OF VIEWS (agenda item 11) (continued)

1. Mr. UMER (Pakistan) said that the spirit of cooperation associated with the Convention, allowing humanitarian concerns to be addressed without compromising legitimate security concerns, should remain States parties' guiding principle. He welcomed the conclusion of Protocol V in 2003, which showed a determination to achieve clear and tangible results despite the impasse in other forums.
2. Expressing satisfaction at the work of the Group of Governmental Experts and the commitment to continued work in 2005, he noted that there was now greater clarity on the technical aspects of mines other than anti-personnel mines, but a clear divergence of views on account of security concerns, their relationship with humanitarian risks, different levels of technological advancement and financial implications. Yet many important areas enjoyed the general support of most States parties. A move should be made towards negotiations when the time was ripe, as there was a need to bridge the gap between the perceptions, understandings and concerns of various States parties.
3. The technical inputs provided by the United Kingdom, Switzerland and France on explosive remnants of war were much appreciated. Voluntary measures and best practices could be very useful, and there was a need to promote the early entry into force of the Protocol on the subject, and its full and expeditious implementation.
4. He commended the efforts made in relation to the compliance mechanism, and particularly the questionnaire drawn up by the Chairperson-designate of the 2004 Meeting of the States Parties. Pakistan supported a non-discriminatory, non-intrusive and voluntary compliance mechanism.
5. Mr. GONZALEZ (Cuba) said that the Convention was a very useful and important tool in reconciling humanitarian problems with States' legitimate security concerns - two dimensions of particular significance for Cuba, whose security concerns arose from 45 years of hostility on the part of the biggest world Power.
6. Cuba considered that before any attempt was made to elaborate on the provisions of the Convention, a thorough evaluation of their effectiveness was vital. Moreover, it was far too soon to assess the impact of the new Protocol V, and the immediate need was to ensure its effective application and secure universal accession to it.
7. As far as mines other than anti-personnel mines were concerned, the present provisions of the Convention adequately addressed humanitarian concerns. It was not clear what the justification was for further steps in that context. The new proposals for a new protocol were highly questionable and would for the most part impose a heavy burden on poor countries.

8. Mr. PRYTZ (Denmark) said that, while anti-vehicle mines could serve legitimate military purposes, a balance must be struck with humanitarian concerns. In that regard, the 30-country proposal was a very important contribution, and the Irish proposal also deserved support. Tangible progress had been made in the past three years, and the time had come to move into negotiating mode.
9. There was a need for further exploration of the application of the principles of international humanitarian law to explosive remnants of war. The design of cluster munitions and their submunitions should be improved, and unexploded submunitions should be equipped with self-destruction, self-neutralization or self-deactivation mechanisms.
10. Denmark remained strongly committed to the Convention process, and planned to continue and strengthen its cooperation in that regard.
11. Mr. RIVASSEAU (France) said that the discussions on mines other than anti-personnel mines, the most important of the three issues on the table, had shown that a continuing divergence of views in some areas was offset by many promising points of convergence, for example on the need to prevent the acquisition of such mines by non-State actors or the possible link between zones of use and detectability. A pragmatic approach must be maintained so that consensus could be secured.
12. In order to make further progress and take advantage of the positive climate, several pitfalls must be avoided - the danger of sterile debates, and of settling for a minimalist text which would not satisfy humanitarian considerations - and broad support must be secured, especially from the users of such mines. The working document on the topic prepared by Ambassador Reimaa met those criteria and offered a sound basis for work towards the instrument which was needed. Now it was necessary to move forward and prepare the text of a new protocol on the subject.
13. Mr. OCHOA (Mexico) said that while the agreements reached on mandates for explosive remnants of war and mines other than anti-personnel mines were perhaps the most that could be achieved at the present stage, they were insufficient to ensure progress towards practical steps to address humanitarian problems. Proposals for compliance mechanisms must be such as to ensure that they were effective, transparent, credible and economically viable. It was not easy to devise general verification machinery, but the international community must provide itself with the means to detect possible violations of the Convention. For that purpose, a capability for analysing evidence presented by States must be supplemented by the possibility of carrying out inspections, with appropriate provision for confidentiality.
14. Several of the additional protocols included an important element of cooperation and assistance, and hence the verification machinery must also allow for checks of compliance with positive and negative obligations. In addition, it might put forward general recommendations to States on improving compliance with the Convention.
15. The document put forward by the European Union generally offered a sound basis for negotiations on verification machinery, but doubts remained on specific points.

16. Mr. ALEINIK (Belarus) said that, since the issue of mines other than anti-personnel mines also affected countries other than the signatories to the Convention and Amended Protocol II, the Group of Governmental Experts and the next annual Conference should focus on specific measures to address the problems such countries faced and thereby promote the universality of the protocols to it.

17. Some speakers had emphasized the importance of adopting new provisions to cover such weapons, but States parties should bear in mind the fact that two to three years would be required to develop such provisions and a similar time before they entered into force, and also the likelihood that they would attract no more than 20-40 States which traditionally supported such instruments.

18. Mr. HERBY (International Committee of the Red Cross) noted that the results of the 2004 session of the Group of Governmental Experts were mixed. He welcomed the growing consensus on the development of a mechanism to monitor compliance with the Convention and its protocols. The Group had benefited from the paper prepared by the Coordinator and had accomplished substantive and informative work, but mines other than anti-personnel mines were a real and present danger, and there was a need for urgent action to deal with them. He called for the rapid conclusion of a new instrument, which should contain measures to address problems on the ground and the challenges facing civilians, humanitarian organizations and mine clearance operations.

19. ICRC welcomed the proposed mandate on explosive remnants of war, but was concerned about the scope of the Group's work in 2005. The Group must address all aspects of the submunitions problem, including consequences when they became explosive remnants of war but also their indiscriminate effects when used against military objectives in populated areas and when they functioned as they were designed to.

20. It would be both inadequate and set an unfortunate precedent for international humanitarian law if future work were to address only design issues and ignore the results of the use, misuse and targeting of submunitions. He urged all States parties to adopt a practical and comprehensive approach to that humanitarian problem.

**THIRD REVIEW CONFERENCE OF THE STATES PARTIES TO THE CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS (agenda item 12)**

21. The CHAIRPERSON sought the views of delegations on arrangements for the preparatory process for the third Review Conference, including such matters as timing, venue, the possible establishment of a preparatory committee and the chairmanship of the Conference.

22. Mr. SANDERS (Netherlands), speaking on behalf of the European Union, pointed out that since the initiation of the revitalized Convention process in 2001, the procedure leading up to review conferences had been modified. On the assumption that the Meeting of the States Parties would be held in the latter part of 2005, it was to be expected that the Review Conference would take place in the second half of 2006. The Meeting of the States Parties should determine the number and duration of preparatory committee sessions in 2006.

23. Meetings of the Group of Governmental Experts in 2006 should be synchronized with sessions of the preparatory committee, whose first session could perhaps be held back to back with the 2005 Meeting of the States Parties. In his view, meetings under the Convention should continue to be held in Geneva. An early decision should be taken on nominating the President of the Review Conference, so as to facilitate preparations.

24. Mr. WENSLEY (South Africa) agreed with the previous speaker. The 2005 Meeting of the States Parties should formalize the preparatory process, which should start early in 2006. As to whether the preparatory process should be organized within the format of the Group of Governmental Experts or in a preparatory committee, he pointed out that, as the Group had been set up to consider specific issues of a substantive nature, its work should be kept separate from that of a preparatory committee, especially if the work of the Group was to continue in 2006.

25. Mr. UCHIKAWA (Japan) agreed that the Review Conference should be held at the end of 2006. In the interests of efficiency, it could be held in conjunction with the autumn session of the Group of Governmental Experts and the annual conference of the States parties to Amended Protocol II. There was no reason to change the venue. The financial implications of the preparatory process needed to be clarified, especially if there was to be a preparatory committee. It was Japan's understanding that the preparations for the Review Conference would be pursued with the goal of maximum efficiency and within existing resources.

26. The CHAIRPERSON suggested that the Chairperson-designate of the 2005 Meeting of the States Parties should be asked to undertake consultations on the preparations for the Third Review Conference in the intersessional period and to report to the Meeting in 2005.

27. It was so decided.

The meeting rose at 4.15 p.m.