

**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 Wednesday, 7 November 2007, at 3 p.m.

Chairperson: Mr. VERROS (Greece)

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

GENERAL EXCHANGE OF VIEWS (agenda item 7) (continued)

1. Mr. AVRAMCHEV (The former Yugoslav Republic of Macedonia) said that, in September 2007, his Government had ratified Protocols IV and V and the amendment to article 1 of the Convention, a step towards making South-Eastern Europe an area in which all countries had ratified the Convention and its protocols.
2. Macedonian teams, with generous assistance from country partners, had destroyed 951 unexploded remnants of war between 2001 and 2006. His Government was committed to destroying the unexploded ordnance which was scattered across the country and stood ready to meet all its obligations resulting from the ratification of Protocol V, in the hope that the necessary assistance would be provided by donor countries. The final document of the First Conference of the High Contracting Parties to Protocol V fully contributed to the effective implementation of that Protocol, in particular in developing a mechanism to facilitate consultation, cooperation and assistance.
3. Mr. CAMACHO (Colombia) said that Colombia's current domestic situation made it impossible for his Government to ratify Protocol V to the Convention. Nevertheless, its Armed Forces and other State agencies were doing all they could to reduce the risk to civilians and information was being compiled on areas potentially affected by explosive remnants of war.
4. Protocol V was applicable in post-conflict situations in which explosive remnants of war were no longer being generated. That was not the case in Colombia, where the current situation would prevent it from meeting the obligations it would assume under the Protocol. Not least, internal constraints in donor countries, combined with the complexity of the domestic situation, prevented access to international cooperation resources by Colombia's Armed Forces, which would be initially responsible for dealing with explosive remnants of war.
5. The same factors prevented Colombia from joining the initiative on cluster munitions.
6. Colombia continued with its implementation of the Plan of Action to Promote Universality of the Convention and was working to raise awareness of the Convention among the Armed Forces and in the Government. In addition, in accordance with its obligations under international humanitarian law, Colombia had amended its criminal legislation to outlaw anti-personnel mines and the use of illicit weapons and methods of warfare.
7. Mr. VUKČEVIĆ (Serbia) said that Serbia had transposed the provisions of the Convention and Protocols I, II, III, and IV into domestic legislation and initiated a procedure for the adoption and ratification of Protocol V.
8. The prohibition of cluster munitions was currently one of the main issues under discussion within the framework of the Convention. The unacceptable consequences of such weapons having been proven, the international community should use existing means of multilateral

diplomacy to prevent their use in future, and effective prevention would best be achieved through a legally binding international instrument. While progress had already been made on the issue, the most significant result would be achieved with the drafting of a comprehensive treaty on cluster munitions by the end of 2008. Serbia itself would soon take a decision on declaring a moratorium on the use of cluster munitions.

9. During the 1999 conflict, approximately 1,080 cluster bombs containing 350,000 submunitions had been dropped on 219 locations of the country, so Serbia had first-hand experience of their destructive power and its people continued to live with the consequences of their use, as a large number of unexploded bombs remained in its territory; total clearance would take at least 15 years. The North Atlantic Treaty Organization had recently provided the Government of Serbia with detailed maps identifying the locations of the dropped cluster bombs, which would be used by the Centre for Demining in locating unexploded cluster ordnance and should help alleviate its serious humanitarian consequences.

10. In 2007, Serbia had participated in conferences on cluster munitions and had held the Conference of the States Affected by Cluster Munitions to discuss how a new treaty should address the needs of those affected. The discussion focused on victim assistance, clearance and international assistance and cooperation.

11. Serbia supported the Oslo process and all efforts made within the framework of the Convention to establish a legally binding instrument, in particular the European Union's proposal for a negotiating mandate on cluster munitions.

12. Mr. MacBRIDE (Canada) welcomed the discussion on compliance and universalization of the Convention and its protocols and expressed support for the sponsorship programme, for which Canada had been pleased to provide financial backing early in 2007. Furthermore, because the States parties had failed to achieve consensus on mines other than anti-personnel mines at the Third Review Conference, Canada had joined with 24 other States in making a national declaration on anti-vehicle mines.

13. The most pressing and controversial topic of discussion at the Meeting of the High Contracting Parties was how to address the issue of cluster munitions. He welcomed the recommendation of the Group of Governmental Experts that the present Meeting should decide how best to address the humanitarian impact of cluster munitions as a matter of urgency, and expressed a desire to work towards a process to negotiate a new protocol addressing the humanitarian and development impact of cluster munitions. He also stressed the complementary nature of the Oslo process and a possible process established under the Convention, pointing out that the two processes would together ensure the participation of all producers, users and affected States and address the humanitarian impact of cluster munitions.

14. Mr. LOULICHKI (Morocco) said that, along with other States, Morocco had ratified the Convention so that the traumatic effects of war on the civilian population would be reduced and had aimed to ensure the universal adoption of the Convention and its protocols. It was a matter of concern that 90 United Nations Member States had still not ratified the Convention, while even more had yet to ratify its protocols. The effectiveness of the Convention depended on its

universal adoption, and no effort should be spared for the implementation of the Plan of Action to Promote Universality of the Convention of the Third Review Conference. The humanitarian aspects of the Convention and its protocols must also be promoted.

15. He reiterated Morocco's support for the negotiating mandate proposed by the European Union and stressed the importance of beginning a discussion on cluster munitions in multilateral bodies on disarmament. Such a discussion should be inclusive and thus contribute to achieving universality. In that context, he supported the call of the Secretary-General for a legally binding instrument on cluster munitions to be negotiated without delay.

16. Mr. LAURIE (United Nations Mine Action) said that, together with other relevant treaties, amended Protocol II and Protocol V underpinned United Nations mine action work. He welcomed the decision of the High Contracting Parties in 2006 to look more specifically at the issue of cluster munitions in the light of their impact on civilians during and after conflicts. He echoed the hope expressed by the Secretary-General that the Meeting would provide an urgent and comprehensive response to the unacceptable problems posed by inaccurate and often malfunctioning cluster munitions. Such a response should include provisions that ensured respect for the rights of survivors and others affected by cluster munitions. He also supported the Secretary-General's call for States to address immediately the horrendous humanitarian, human rights and development effects of cluster munitions by concluding a legally binding instrument on the issue, which should provide for clearance, risk education and other risk mitigation activities, victim assistance, assistance and cooperation, and compliance and transparency measures. He called on States to take domestic measures to immediately freeze the use and transfer of all cluster munitions until such a treaty was adopted, and to take action to enhance existing international law applicable to cluster munitions.

17. Mr. NASH (Cluster Munition Coalition), while noting that discussion of cluster munitions in the context of the Meeting of the High Contracting Parties was long overdue, welcomed the recognition of the grave humanitarian consequences of the use of cluster munitions. He attributed the new focus on the issue to the progress achieved in the Oslo process, which had brought a meaningful global treaty within reach. Public concern on the issue had been demonstrated on the recent Global Day of Action to Ban Cluster Bombs, with events in 40 countries worldwide.

18. Initiatives to address the problem in the context of the Oslo process included the Lima and Belgrade conferences in 2007. The European Regional Conference on Cluster Munitions had helped reinforce the commitment of the European Union to concluding a cluster munitions instrument in 2008. The Oslo process was effective because of the way it dealt with field realities. Despite much talk of the need to balance humanitarian concerns and military imperatives in meetings held under the auspices of the Convention, military concerns had taken precedence over humanitarian imperatives. The Oslo process had benefited from the experience of those directly affected by cluster munitions. The present Meeting should move on to discussion of the substance of a future instrument, so that a legally binding instrument could be established by the end of 2008. In conclusion, he repeated calls for States which had not yet done so to adopt a moratorium on cluster munitions.

CONSIDERATION OF THE REPORT OF THE WORK OF THE GROUP OF GOVERNMENTAL EXPERTS (agenda item 10) (continued) (CCW/GGE/2007/3, CCW/GGE/2007/WP.1 and 3)

19. Mr. MANSFIELD (Geneva International Centre for Humanitarian Demining) drew the attention of participants to a new publication, the Guide to Cluster Munitions, which had been produced at the request of the Chairperson of the Group of Governmental Experts and published by the Geneva International Centre for Humanitarian Demining with funding from Lithuania and the United Kingdom.

20. He outlined the contents of the Guide and said that the Centre's objective was to support the work being done at various levels to move towards the conclusion of an international legally binding instrument on cluster munitions; in that context, the Guide took a neutral, technical approach and was intended as a contribution to the debate. It was not intended to supplement or expand on current international law.

21. Mr. PEREIRA GOMES (Portugal), speaking on behalf of the European Union; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition Armenia, Georgia, Iceland, Liechtenstein and Moldova, said that the question of cluster munitions must be dealt with urgently and effectively. The European Union had submitted to the Group of Governmental Experts, at its June 2007 session, a proposal, contained in document CCW/GGE/2007/WP.3, for a negotiating mandate on cluster munitions, for adoption at the current Meeting of the High Contracting Parties. Its aim in doing so had been to show the Convention's relevance to matters of international humanitarian law in general and to humanitarian concerns regarding cluster munitions in particular. The ultimate objective was the conclusion of a legally binding instrument.

22. The proposal was a finely balanced text and sufficiently flexible to accommodate varying degrees of ambition. The time frame envisaged was ambitious, but experience of negotiations in the framework of the Convention had shown that losing the sense of urgency could work against effective negotiations. He called on all States parties to support the European Union proposal.

23. Ms. PLEŠTINA (Croatia) said that her country's first-hand experience of the effects of cluster munitions on the civilian population, and their continuing consequences long after hostilities had ceased, had prompted Croatian Government ministries to initiate the procedure for declaring a moratorium on the production, transfer and use of cluster munitions, which caused unacceptable harm to civilians.

24. Mr. BORISOVAS (Lithuania) said that, if the States parties agreed to begin negotiations on a legally binding international instrument, they should consider the lessons learnt from the implementation of other instruments of international humanitarian law, including the Convention itself and its protocols, and from the broader domain of mine action.

25. With regard to stockpile destruction, for example, which should be one of the obligations under such an instrument, Lithuania, as Co-Chair of the Standing Committee of Experts on Stockpile Destruction under the Ottawa Convention on Landmines, was concerned about the

fact that some of the States parties to that Convention were facing serious difficulties in meeting their treaty obligations. Obligations in respect of stockpile destruction should take account of capacity to destroy stockpiles safely and without harm to the environment.

26. Mr. DRAGANOV (Bulgaria) commended those States that had imposed a unilateral moratorium on the use of cluster munitions. Bulgaria intended to do likewise until an international legally binding instrument was in place.

27. Mr. TARUI (Japan) said that his Government was in favour of commencing negotiations on an international instrument that balanced humanitarian and security requirements, and which had the support of the major countries that produced and possessed cluster munitions. The negotiating mandate should be as concrete as possible, but the High Contracting Parties should give priority to reaching a consensus so that negotiations could be launched at their current meeting.

28. Mr. LÜDEKING (Germany) said that the issue of cluster munitions was a pressing concern for Germany, which had already banned four of the most dangerous types and was phasing out the three remaining types.

29. National measures were not sufficient, however, and Germany called on all States parties to support the European Union proposal for a negotiating mandate on an international instrument. The time frame proposed was not over-ambitious, provided there was the necessary political will. Much preparatory work had already been done. Germany itself had submitted a draft protocol on cluster munitions, contained in document CCW/GGE/2007/WP.1, to the Group of Governmental Experts at its June 2007 session. That could serve as a basis for negotiation.

COMPLIANCE MECHANISM APPLICABLE TO THE CONVENTION (agenda item 9)

30. Mr. PEREIRA GOMES (Portugal), speaking on behalf of the European Union; the candidate countries Croatia and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Georgia, Iceland, Liechtenstein and Moldova, said that at the Third Review Conference in 2006 the European Union had supported adoption of the compliance mechanism decided on (CCW/CONF.III/11 (Part II), Annex II), although it would have preferred a stronger one. They were committed to its full implementation and encouraged all States parties to report on national steps taken to implement the Convention and its Protocols (Annex II, para. 5) and to designate national experts for inclusion in the pool of experts to be established (Annex II, para. 10). Regular review of the operational status of the Convention and its Protocols was so important that it merited inclusion in the agenda of meetings of States parties.

31. Mr. LÜDEKING (Germany) said that he would appreciate an update from the secretariat on the States that had submitted a compliance report; his country had been one of the first to do so.

32. Mr. KOLAROV (Secretary-General of the Meeting) said that the secretariat had recently circulated information paper CCW/MSP/2007/INF.1, which listed the 22 States parties that had submitted reports. All but one of those reports were posted on the CCW website. He also drew attention to CCW/MSP/2007/INF.2, listing the countries that had provided experts to the pool of experts.
33. Mr. KAHILUOTO (Finland) said that it might be useful for the representative of the International Committee of the Red Cross (ICRC) to present ICRC's observations by way of introduction to the item under discussion.
34. Mr. MARESCA (International Committee of the Red Cross) said that ICRC had highlighted two main areas of work in its document entitled "Observations on implementing the CCW's decision on a compliance mechanism" (CCW/MSP/2007/WP.1).
35. The working paper dealt first with measures taken by States parties to implement the Convention and its Protocols and to ensure compliance with their provisions, such as the inclusion of the Convention in military training programmes and manuals, and in courses or documentation for non-military audiences; national legislation to prevent and suppress violations, particularly of amended Protocol II; and other regulations and policies regarding implementation and compliance.
36. Second, the working paper focused on mechanisms for reviewing the legality of new weapons. Additional Protocol I (1977) to the 1949 Geneva Conventions already required each State party to determine whether the use of any new weapon or method of warfare would be prohibited by international law. The importance of such reviews had been recognized by States parties in the Final Declaration of the Third Review Conference (CCW/CONF.III/11 (Part II)). While he was aware that some of the States participating in the present Meeting were not parties to Additional Protocol I (1977), its relevance was clear, and the Meeting presented the opportunity for States which already had such review mechanisms to present them and share their experience.
37. Mr. SHARMA (India) said that his country was satisfied with the compliance mechanism adopted by the Third Review Conference. States parties had primary responsibility for the full implementation of their obligations under the Convention and its five Protocols, and India was party to all of them. Given the amount of work and documentation the new compliance mechanism would generate, serious consideration should be given to strengthening the CCW secretariat. He noted that the standardized reporting format and the registration form for the pool of experts had been adopted on a trial basis, and looked forward to finalizing them through discussions to which his country hoped to make major contributions.
38. India welcomed the important ideas contained in the ICRC working paper (CCW/MSP/2007/WP.1) and reiterated the need for countries both individually and collectively to examine the legality of new and advanced conventional weapons.
39. Mr. BETTAUER (United States of America) welcomed the suggestions of ICRC on implementation measures. As for the second area of work highlighted in the ICRC working paper, his Government's position was that, while reviews of the legality of new weapons were

important and incumbent on any State that developed or used weapons, such reviews had no role in the CCW. Reviewing the legality of new weapons was an obligation laid down in Protocol I (1977) to the 1949 Geneva Conventions. Though not party to the Protocol, the United States conducted rigorous reviews of its own and had participated in international meetings where the process was discussed. However, the issue should not be brought into the framework of the CCW and its protocols, which included no general obligation to review new weapons; within the CCW, weapons were discussed on a case-by-case basis.

40. Mr. SHEN Jian (China) supported the decision by the Third Review Conference to establish a compliance mechanism. Since becoming party to the Convention, China had helped promote its credibility and authority and had fulfilled its obligations, including the submission of its national report and of the names of experts. It stood ready to cooperate with all concerned to promote not just awareness but capacity among States parties, and otherwise support the establishment of an effective compliance mechanism.

41. A compliance mechanism based on consensus was most likely to result in effective implementation of the Convention and its Protocols, and the steps taken toward its establishment should likewise be governed by the principles of equality and consensus. The issue of compliance might well be made a standing item of the agenda of the CCW rather than the sole focus of a separate meeting, unless decided otherwise by the majority of States parties in the event of a major breach of the Convention. It would be useful to clarify the wording of the provisions describing the procedures to be used for coordination, consultation and consensus-building. Lastly, expert reports were meant to serve as a reference for States parties and were consultative in nature. Since they were not legally binding, they should not be made available to other parties without the consent of the party that had submitted them.

42. Mr. MALOV (Russian Federation) said that he supported the position of the representative of the United States of America on reviewing the legality of new weapons, which was an obligation under Additional Protocol I (1977) to the 1949 Geneva Conventions. It would be counterproductive to import the issue into the CCW framework. He considered national reporting on compliance justifiable and useful but the replies received would need to be analysed and ultimately presented in a report.

43. Mr. DOBELLE (France) and Mr. WENSLEY (South Africa) said that their countries had provided experts to the pools of experts but were missing from the list of States parties that had done so (CCW/MSP/2007/INF.2). It was also noted that the document had been circulated only in English.

44. The CHAIRPERSON assured the representatives of France and South Africa that the list would be corrected and that versions in languages other than English would be issued.

The meeting rose at 5 p.m.