

Group of Governmental Experts 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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Fourth Review Conference of the

High Contracting Parties to the Convention

Draft Final Document of the Fourth Review Conference 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*

Submitted by the Chairperson

Part I

Report of the Fourth Review Conference

- I. Introduction
- II. Organization of the Fourth Review Conference
- III. Work of the Fourth Review Conference
- IV. Decisions and Recommendations of the Fourth Review Conference

[TO BE COMPLETED]

* This document was submitted after the due date owing to the short interval between the first and second sessions of the Group of Governmental Experts 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.

Part II

Final Declaration

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, which met in Geneva from 14 to 25 November 2011, to review the scope and operation of the Convention and the Protocols annexed thereto and to consider any proposal for amendments of the Convention or of the existing Protocols, as well as proposals for additional protocols relating to other categories of conventional weapons not covered by the existing annexed Protocols,

Preambular paragraph 1

Recalling the Declarations adopted by the First Review Conference in 1996, the Second Review Conference in 2001, and the Third Review Conference in 2006, [CCW/CONF.III/11 (Part II), preambular paragraph 1, modified]

Preambular paragraph 2

Reaffirming their conviction that 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 is significantly reducing the suffering of civilians and combatants, [CCW/CONF.III/11 (Part II), preambular paragraph 2]

Preambular paragraph 3

Recognising that most major armed conflicts are non-international in character, and that such conflicts have been brought within the scope of the Convention by the amendment of Article 1 of the Convention, [CCW/CONF.III/11 (Part II), preambular paragraph 3]

Preambular paragraph 4

Emphasizing the importance of fully implementing the Plan of Action to Promote Universality of the Convention to achieve universal adherence to the Convention and their determination to call upon all States that have not done so to become parties to the Convention and its annexed Protocols as soon as possible, [CCW/CONF.III/11 (Part II), preambular paragraph 4, modified]

Preambular paragraph 5

Welcoming the entry into force of the Amendment to Article 1 of the Convention on 18 May 2004, by which the scope of application of the Convention was extended to also cover conflicts of non-international character, [CCW/CONF.III/11 (Part II), preambular paragraph 5]

Preambular paragraph 6

Emphasizing the importance of compliance with the provisions of the Convention and its annexed Protocols by all High Contracting Parties, in accordance with the Compliance mechanism applicable to the Convention [CCW/CONF.III/11 (Part II), preambular paragraph 6, modified]

Preambular paragraph 7

Welcoming the entry into force of the Protocol on Explosive Remnants of War (Protocol V) on 12 November 2006, [CCW/CONF.III/11 (Part II), preambular paragraph 7]

Preambular paragraph 8

Recalling the obligation of all parties to a conflict to take all feasible precautions in the use of mines other than anti-personnel mines/anti-vehicle mines (MOTAPM/AVM) with a view to avoiding incidental loss of civilian life, injury to civilians and damage to civilian objects, [CCW/CONF.III/11 (Part II), *preambular paragraph 8*]

Preambular paragraph 9

Affirming their strong determination to protect civilians from the humanitarian impact of cluster munitions, [CCW/CONF.III/11 (Part II), *preambular paragraph 9, modified*],

Preambular paragraph 10

Deeply concerned at the humanitarian and development problems caused by the presence of explosive remnants of war, which constitute a danger to the civilian population as well as an obstacle to reconstruction, restoration of normal social conditions and economic development and in this context reaffirming the need to reinforce international cooperation and assistance with this respect, [CCW/CONF.III/11 (Part II), *preambular paragraph 10*]

Preambular paragraph 11

Noting the foreseeable effects of explosive remnants of war on civilian populations as a factor to be considered in applying the international humanitarian law rules on proportionality in attack and precautions in attack, [CCW/CONF.III/11 (Part II), *preambular paragraph 11*]

Preambular paragraph 12

Acknowledging the work accomplished by the Group of Governmental Experts (GGE) to address urgently the humanitarian impact of cluster munitions, [*new*]

Preambular paragraph 13

Recognising the crucial role of the International Committee of the Red Cross and encouraging it to continue to work to facilitate further ratifications and accessions to the Convention and its annexed Protocols, to disseminate their contents and to lend its expertise to future Conferences and other meetings related to the Convention and its annexed Protocols, [CCW/CONF.III/11 (Part II), *preambular paragraph 13*]

Preambular paragraph 14

Acknowledging the invaluable humanitarian efforts of non-governmental organisations in mitigating the humanitarian impact of armed conflicts and welcoming the expertise they have brought to the work of the Group of Governmental Experts and to the Review Conference itself, [CCW/CONF.III/11 (Part II), *preambular paragraph 14*]

SOLEMNLY DECLARE:

Operative paragraph 1

1. Their commitment to respect and comply, in accordance with the norms and principles of international law, with the objectives and provisions of the Convention and its annexed Protocols to which they are party as authoritative international instruments governing the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects, [CCW/CONF.III/11 (Part II), *operative paragraph 1*]

Operative paragraph 2

2. Their commitment to implement fully the Convention and its annexed Protocols to which they are party, and to keep the provisions of the Convention and its annexed Protocols under review in order to ensure their provisions remain relevant to modern conflicts, [CCW/CONF.III/11 (Part II), operative paragraph 2]

Operative paragraph 3

3. Their determination to consult and cooperate with each other in order to facilitate the full implementation of the obligations contained in the Convention and its annexed Protocols to which they are party, thereby promoting compliance, [CCW/CONF.III/11 (Part II), operative paragraph 3]

Operative paragraph 4

4. Their commitment to the full implementation of, and compliance with, the Convention and its annexed protocols, and in this respect, their satisfaction at the adoption of a compliance mechanism applicable to the Convention and its annexed Protocols, [CCW/CONF.III/11 (Part II), operative paragraph 4]

Operative paragraph 5

5. Their satisfaction at the establishment of a Sponsorship Programme within the framework of the Convention, and, with recognition of the value and importance of the programme, encourage States to contribute to the Sponsorship Programme, [CCW/CONF.III/11 (Part II), operative paragraph 5, modified]

Operative paragraph 6

6. Their satisfaction at the entry into force of the amendment to Article 1 of the Convention extending the application of the Convention and its annexed Protocols to armed conflicts of a non-international character, [CCW/CONF.III/11 (Part II), operative paragraph 6]

Operative paragraph 7

7. Their desire that all States respect and ensure respect for the revised scope of application of the Convention to the fullest extent possible, and their determination to encourage all States which have not yet done so to ratify, accept, approve or accede to, as appropriate, the amendment to Article 1 as soon as possible, [CCW/CONF.III/11 (Part II), operative paragraph 7]

Operative paragraph 8

8. Their determination to encourage all States to become parties, as soon as possible, to the Protocol on Non-Detectable Fragments (Protocol I), the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Amended Protocol II), the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III), the Protocol on Blinding Laser Weapons (Protocol IV), and the Protocol on Explosive Remnants of War (Protocol V), and that all States respect and ensure respect for the substantive provisions of these Protocols, [CCW/CONF.III/11 (Part II), operative paragraph 8, modified]

Operative paragraph 9

9. Their satisfaction at the entry into force of the Protocol on Explosive Remnants of War (Protocol V), as well as their determination to encourage all States to become parties to Protocol V as soon as possible, and encourage all States to respect and ensure respect for the substantive provisions of Protocol V, [CCW/CONF.III/11 (Part II), operative paragraph 9]

Operative paragraph 10

10. Their satisfaction at the adoption of the Plan of Action to promote universality of the Convention and its annexed Protocols, [CCW/CONF.III/11 (Part II), *operative paragraph 10*]

Operative paragraph 11

11. Their continuing commitment to address as a matter of urgency the deleterious humanitarian effects of explosive remnants of war, through the effective and efficient implementation of Protocol V and reinforced international cooperation aimed at minimizing the risks and effects of unexploded and abandoned explosive ordnance, [CCW/CONF.III/11 (Part II), *operative paragraph 11*]

Operative paragraph 12

12. That annual meetings of the High Contracting Parties will discuss further feasible precautions that may be taken to protect civilians from the effects of MOTAPM/AVM, [CCW/CONF.III/11 (Part II), *operative paragraph 12*]

Operative paragraph 13

13. That High Contracting Parties will seek to build on the work of the GGE over the past five years in order to achieve consensus on appropriate measures to address the issue of MOTAPM/AVM, including their use, [CCW/CONF.III/11 (Part II), *operative paragraph 13*]

Operative paragraph 14

14. Their commitment, without prejudice to the Protocol on Explosive Remnants of War, to continue to address the humanitarian problems caused by certain specific types of munitions in all their aspects, including cluster munitions, with a view to minimizing the humanitarian impact of these munitions, [CCW/CONF.III/11 (Part II), *operative paragraph 14*]

Operative paragraph 15

15. That annual meetings of the High Contracting Parties will discuss further feasible precautions that may be taken to protect civilians from the humanitarian impact of cluster munitions [new]

Operative paragraph 16

16. Their continuing commitment to assist, to the extent feasible, humanitarian demining missions, operating with the consent of the host State and/or the relevant States parties to the conflict, in particular by providing all necessary information in their possession covering the location of all known minefields, mined areas, mines, explosive remnants of war, booby-traps and other devices in the area in which the mission is performing its functions, [CCW/CONF.III/11 (Part II), *operative paragraph 16*]

Operative paragraph 17

17. Their determination to urge States which do not already do so to conduct reviews to determine whether any new weapon, means or methods of warfare would be prohibited under international humanitarian law or other rules of international law applicable to them. In this context, the Conference notes that the International Committee of the Red Cross has published in 2006 a guide to the legal review of new weapons, means and methods of warfare, [CCW/CONF.III/11 (Part II), *operative paragraph 17*]

Recognise that the important principles and provisions contained in this Final Declaration can also serve as a basis for further strengthening the Convention and its annexed Protocols and express their determination to implement them,

AND TAKE THE FOLLOWING DECISIONS:

Decision 1

Decide to ...

[ON CLUSTER MUNITIONS]

Decision 2

Decide to ...

[ON MINES OTHER THAN ANTI-PERSONNEL MINES]

Decision 3

Decide to ...

[ON COMPLIANCE]

Decision 4

Decide to ...

[ON SPONSORSHIP PROGRAMME]

Decision 5

Decide to ...

[ON PLAN OF ACTION TO PROMOTE UNIVERSALITY OF THE CONVENTION]

Decision 6

Decide to ...

[ON FURTHER WORK]

[TO BE COMPLETED]

REVIEW:

Preambular paragraph 3

The Conference recalls the obligation to determine, in the study, development, acquisition or adoption of a new weapon, means and method of warfare, whether its employment would, in some or all circumstances, be prohibited under any rule of international law applicable to the High Contracting Parties. [CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), *review of preambular paragraph 3*]

Preambular paragraph 8

The Conference reaffirms the need to continue, as appropriate, the codification and progressive development of the rules of international law applicable to certain conventional weapons which may be excessively injurious or to have indiscriminate effects.

[CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of preambular paragraph 8]

Preambular paragraph 10

The Conference underlines the need to achieve wider adherence to the Convention and its annexed Protocols. The Conference welcomes recent ratifications and accessions to the Convention and its annexed Protocols and urges the High Contracting Parties to accord high priority to their diplomatic efforts to encourage further adherence with a view to achieving universal adherence as soon as possible. *[CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of preambular paragraph 10]*

Article 1

The Conference notes the provisions of Article 1, as amended on 21 December 2001.

The Conference calls upon States which have not yet done so to ratify, accept, approve or accede to, as appropriate, the amendment to Article 1. *[CCW/CONF.III/11 (Part II), review of Article 1]*

Article 2

The Conference reaffirms that nothing in the Convention or its annexed Protocols shall be interpreted as detracting from other obligations imposed upon the High Contracting Parties by international humanitarian law. *[CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of Article 2]*

Article 3

The Conference notes the provisions of Article 3. *[CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of Article 3]*

Article 4

The Conference notes that [114] States have ratified, accepted, acceded or succeeded to the Convention.

The Conference calls upon States which are not parties to this Convention to ratify, accept, approve or accede to, as appropriate, the Convention, thus contributing to the achievement of universal adherence to the Convention.

The Conference invites the High Contracting Parties to encourage further accessions to the Convention and its annexed Protocols.

The Conference, in this context, welcomes the adoption of the Plan of Action to Promote Universality of the Convention. *[CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of Article 4, modified and updated]*

Article 5

The Conference notes the provisions of Article 5.

The Conference recalls in particular the provisions of paragraph 3 of this Article, which stipulates that each of the Protocols annexed to the Convention shall enter into force six months after the date by which twenty States have notified their consent to be bound by it. The Conference welcomes the entry into force on 12 November 2006 of the Protocol on Explosive Remnants of War (Protocol V). *[CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of Article 5]*

Article 6

The Conference encourages international cooperation in the field of dissemination of the Convention and its annexed Protocols and recognizes the importance of multilateral

collaboration relating to instruction, the exchange of experience at all levels, the exchange of instructors and the organization of joint seminars. The Conference underlines the importance of the High Contracting Parties' obligation to disseminate this Convention and its annexed Protocols and, in particular, to include the content in their programmes of military instruction at all levels.

The Conference, in this context, welcomes the establishment of a Sponsorship Programme within the framework of the Convention, aimed at, inter alia, strengthening the implementation of the Convention and its annexed Protocols, promoting the universal observance of the norms and principles enshrined therein, supporting the universalization of the Convention and its annexed Protocols, and enhancing the cooperation, the exchange of information and the consultations among the High Contracting Parties on issues related to the Convention and its annexed Protocols.

The Conference welcomes the establishment of a web page of the Convention and its annexed Protocols on the website of the United Nations and on the website of the Presidency and requests the Secretary-General of the United Nations to continue to make all documents related to the Convention, available on the UN website. [CCW/CONF.III/11 (*Part II*), *review of Article 6*]

Article 7

The Conference notes the provisions of Article 7.

On Compliance, the Conference notes the work done and the decision taken by the Review Conference. [CCW/CONF.III/11 (*Part II*), *review of Article 7*]

Article 8

The Conference notes the provisions of Article 8.

[MOTAPM]

[CLUSTER MUNITIONS]

[FURTHER WORK]

The Conference decides, consistent with Article 8, paragraph 3 (c) to convene a Meeting of the High Contracting Parties to be held on [...] in conjunction with the Conferences of the High Contracting Parties to Amended Protocol II and to Protocol V.

The High Contracting Parties recall their agreement reached by the Third Review Conference in 2006 in reviewing Article 8 of the Convention.

Article 9

The Conference notes with satisfaction that the provisions of this Article have not been invoked. [CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (*Part II*), *review of Article 9*]

Article 10

The Conference notes the provisions of Article 10. [CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (*Part II*), *review of Article 10*]

Article 11

The Conference notes the provisions of Article 11.

The Conference notes the corrections to the original text of Protocol V on Explosive Remnants of War (French, Russian and Spanish versions) and to the certified true copies

effected by the Secretary-General of the United Nations, acting in his capacity as depositary. [CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (*Part II*), *review of Article 11*]

Protocol on Non-Detectable Fragments (Protocol I)

The Conference notes the provisions of this Protocol. [CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (*Part II*), *review of Protocol I*]

Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II) and Technical Annex to the Protocol

The Conference notes the provisions of this Protocol. [CCW/CONF.II/2, CCW/CONF.III/11 (*Part II*), *review of Protocol II*]

Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Amended Protocol II) and Technical Annex to the Protocol

The Conference acknowledges that the High Contracting Parties strengthened Protocol II in a number of areas at the First Review Conference.

The Conference also notes with satisfaction that, in accordance with Article 13 of Amended Protocol II, twelve Annual Conferences of the High Contracting Parties have been held for the purpose of consultations and cooperation on all issues related to Amended Protocol II.

The Conference recommends that future Annual Conferences of the High Contracting Parties to Amended Protocol II coincide with any meetings of the High Contracting Parties to the Convention and Conferences of the High Contracting Parties to Protocol V.

The Conference also notes with satisfaction that, in the framework of revitalizing the work under Amended Protocol II and to further enhance its implementation, in accordance with the decision of the Tenth Annual Conference of the High Contracting Parties to Amended Protocol II in 2008 to establish an informal open-ended Group of Experts, three meetings of the Group of Experts have been held to review the operation and status of the Protocol, consider matters arising from reports by High Contracting Parties according to Article 13, paragraph 4 of Amended Protocol II, as well as the development of technologies to protect civilians against indiscriminate effects of mines. The Group also addresses the issue of improvised explosive devices.

The Conference takes note of the reporting obligations of the High Contracting Parties under Amended Protocol II, and calls on the High Contracting Parties to fulfil these obligations in a timely, consistent and complete manner.

The Conference recalls that the deferral period provided for in paragraphs 2 (c) and 3 (c) of the Technical Annex, which allows High Contracting Parties to defer compliance with the requirements of Article 4 on detectability of anti-personnel mines and of Article 5 on self-destruction and self-deactivation of anti-personnel mines, has expired on 3 December 2007.

The Conference acknowledges the valuable work of relevant agencies and bodies of the United Nations; of the International Committee of the Red Cross pursuant to its mandate to assist war victims; of the Geneva International Centre for Humanitarian Demining; as well as of NGOs in a number of fields, in particular the care and rehabilitation of mine victims, implementation of mine-awareness programmes and mine clearance. [CCW/CONF.I/16,

CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of Amended Protocol II, amended and modified]

Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III)

The Conference notes the provisions of this Protocol. [CCW/CONF.I/16, CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of Protocol III]

Protocol on Blinding Laser Weapons (Protocol IV)

The Conference notes the provisions of this Protocol. [CCW/CONF.II/2, CCW/CONF.III/11 (Part II), review of Protocol IV]

Protocol on Explosive Remnants of War (Protocol V) and Technical Annex to the Protocol

The Conference notes of the provisions of this Protocol and welcomes with satisfaction its entry into force.

The Conference encourages the High Contracting Parties to make all best endeavours to comply with suggested best practices, as specified in the Technical Annex, for achieving the objectives contained in Articles 4, 5 and 9 of the Protocol.

The Conference also notes with satisfaction that, in accordance with Article 10 of Protocol V, five Conferences of the High Contracting Parties have been held for the purpose of consultations and cooperation on all issues related to the operation of Protocol V.

The Conference recommends that future Conferences of the High Contracting Parties to Protocol V coincide with any meetings of the High Contracting Parties to the Convention and the Annual Conferences of the High Contracting Parties to Amended Protocol II.

The Conference also notes with satisfaction the decision of the First Conference of the High Contracting Parties to Protocol V in 2007 to establish a mechanism for consultation and cooperation consisting of informal meetings of experts chaired by Coordinators. Four Meetings of Experts have been held on issues such as clearance; cooperation and assistance; generic preventive measures; reporting; requests for assistance with the aim to connect needs with resources, and at fostering cooperation and assistance between those requesting assistance in dealing with the problems posed both by existing and future explosive remnants of war and those in a position to provide assistance; universalization; victim assistance; and any other relevant issue.

The Conference acknowledges the valuable work of relevant agencies and bodies of the United Nations; of the International Committee of the Red Cross pursuant to its mandate to assist war victims; of the Geneva International Center for Humanitarian Demining; as well as of NGOs in a number of fields, in particular the care and rehabilitation of victims of explosive remnants of war, risk education, and clearance, removal or destruction of unexploded ordnance and abandoned explosive ordnance. [CCW/CONF.III/11 (Part II), review of Protocol V, amended and modified]

Annex I

Annex II

Annex III

Part III

Documents of the Fourth Review Conference

- I. Agenda of the Fourth Review Conference
 - II. Programme of work of the Fourth Review Conference
 - III. Rules of Procedure of the Fourth Review Conference
 - IV. Report of the Credentials Committee
 - V. Report of Main Committee I
 - VI. Report of Main Committee II
 - VII. Report of the Drafting Committee
- [TO BE COMPLETED]