

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 14 October 2011

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Review of the scope and operation of the Convention and its annexed Protocols

Promoting the Universality of the Convention and its Annexed Protocols, Review and Food for Thought Paper

Submitted by the CCW Implementation Support Unit

A. Introduction

1. The Third Review Conference adopted the “Plan of Action to Promote Universality of 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”, as contained in the Final Document of the Conference.¹

2. The Conference agreed that universality of the Convention and its Protocols would remain a priority objective of cooperation among States Parties in the period from 2006 to 2011. The Plan of Action set out seven actions to be undertaken by the States Parties. Those actions were for States Parties to consider joining all the Protocols and the amendment to Article 1 of the Convention, to which they were not yet party; encourage the States signatories of the Convention to ratify as soon as possible; to engage the interest of all States in the work of the Convention, especially those belonging to conflict zones or regions with low adherence to the Convention; to prevent and suppress violations of the Convention on their territory or by persons under their control; and to encourage the involvement and active cooperation in these universalization efforts by all relevant partners.

3. To achieve the seven actions on universalization, the States Parties agreed to undertake all appropriate measures, including utilizing bilateral contacts and diplomatic channels; promoting awareness of the Convention and its Protocols in cooperation; and coordinating regional approaches which take into account the characteristics of each region. Universalization has been monitored and reviewed by States Parties on an annual basis. For this purpose, the CCW Secretariat/Implementation Support Unit regularly reports to the States Parties on the implementation of the Plan of Action.

4. This paper is presented in accordance with paragraphs 11 and 12 of the Plan of Action, which stipulate the following: “The Secretariat shall report on implementation of this Plan of Action, and keep the States Parties regularly informed, so that they may review progress and monitor its implementation effectively” and “The implementation of this Plan of Action will be reviewed by the Fourth Review Conference, which will take any decisions

¹ CCW/CONF.III/11, Part II, annex III.

deemed necessary”. This paper reviews universalization activities over the past five years and the section titled “An Accelerated Plan of Action on Universalization” draws on the recommendations presented by the President-designate of the Fourth Review Conference, Ambassador Gancho Ganev, in his letter dated 15 August 2011, and the discussions which took place during the preparatory session for the Review Conference, held at the Third CCW Group of Governmental Experts, 22 – 26 August 2011.

B. Efforts to Promote Universality

5. Pursuant to the Plan of Action adopted by the Third Review Conference, a range of initiatives have been undertaken to promote universal adherence to the Convention and its annexed Protocols, which are detailed in this section.

6. There have been numerous efforts to reach out to non-States Parties to the Convention. In 2007, a message signed by the President of the Third Review Conference and the Chairperson designate of the 2007 Meeting of the States Parties to the Convention, was addressed to the Ministers for Foreign Affairs of all 108 States Parties to the Convention. The message reiterated the significance of taking appropriate bilateral and multilateral actions that would facilitate the achievement of universal adherence to the Convention and its Protocols. It also requested the States Parties to provide information pertaining to their implementation of the Plan of Action.² That was followed up in 2008 by the Chairperson of the 2007 Meeting of States Parties.³ In 2009, 2010 and 2011 such messages were co-signed by the Chairpersons of the Meeting of States Parties to the Convention, along with the Presidents of the Annual Conferences of States Parties to Amended Protocol II and the Presidents of the Conferences of States Parties to Protocol V.⁴ The President-designate of the Fourth Review Conference during his bilateral consultations urged States Parties to join all of the CCW’s Protocols and undertake actions in support of universalization.

7. Each year either the CCW office holders - the Chairperson of the Meeting of the High Contracting Parties to the Convention, the President of the High Contracting Parties to Amended Protocol II and the President of the Conference of the High Contracting Parties to Protocol V - co-signed messages addressed to the Ministers for Foreign Affairs of the Members States of the United Nation that were not party to the Convention, and the remaining Signatory States, encouraging them to consider becoming party.⁵

8. The Secretary-General of the United Nations has addressed messages to the Heads of States or Governments of the States that were not party to the Convention, including the remaining 5 Signatory States, inviting them to consider becoming party to the CCW.⁶ Moreover, since the Second Review Conference, the CCW and its Protocols have featured each year in the annual United Nations Treaty Event, which is held during the opening week of the General Assembly debate. This event provides an opportunity for States to sign, ratify or accede to United Nations treaties and thereby demonstrate their ongoing commitment to international law.

² CCW/MSP/2007/INF.4, paragraph 5(ii).

³ CCW/MSP/2008/INF.2, paragraph 6.

⁴ CCW/MSP/2009/3, paragraph 4(b) and CCW/MSP/2010/4, paragraph 4(b).

⁵ CCW/MSP/2007/INF.4, paragraph 5(iii); CCW/MSP/2008/INF.2, paragraph 6; CCW/MSP/2009/3, paragraph 4(c) and CCW/MSP/2010/4.

⁶ CCW/MSP/2007/INF.4, paragraph 5(i); CCW/MSP/2009/3, paragraph 4(a); and CCW/MSP/2010/4, paragraph 4(a).

9. There have also been actions specifically addressed at the universalization of Amended Protocol II and Protocol V. The Presidents of the Annual Conferences of the High Contracting Parties to Amended Protocol II in 2008 and 2010 sent messages addressed to the Minister for Foreign Affairs of the remaining twelve States Parties to the original Protocol II encouraging them to consider becoming party to Amended Protocol II.⁷ Latvia as President of the Eleventh Annual Conference of for Amended Protocol was particularly pro-active in promoting universalization. It met with delegations of States not party to Amended Protocol II in both Geneva and New York to urge them to join. On Protocol V, in 2008, 2010 and 2011 the Presidents of the Conferences sent messages addressed to the Minister for Foreign Affairs of the State Parties to the Convention but not yet party to Protocol V encouraging them to consider becoming party.⁸ Australia as President of the Fourth Conference of Protocol V encouraged a number of States Parties in East and South-East Asia to join Protocol V. In 2011, Belarus in its role as President-designate of the Fifth Conference of Protocol V invited its partners within the Collective Security Treaty Organization to undertake actions towards the universalization of the CCW and its Protocols.

10. State Parties and non-States Parties have responded to the above representations. These have been informative, assisted States Parties in understanding the positions of other countries and helped to focus universalization efforts in future years.

C. Regional Efforts

11. The joint project of the United Nations Office for Disarmament Affairs (UNODA) and the European Union (EU) to promote the universalization and implementation of the CCW, launched in October 2007, was successfully concluded during the First Committee of the sixty-fourth session of the United Nations General Assembly. Under this project, UNODA, with the financial support of the EU, and in cooperation with ICRC, United Nations Institute for Disarmament Research (UNIDIR) and United Nations Mine Action Service (UNMAS) organized a series of six regional and sub-regional universalization seminars for (i) Latin America and the Caribbean (Santo Domingo, Dominican Republic, 11-12 March 2008); (ii) West and East Africa (Lomé, Togo, 21-22 April 2008); (iii) the Great Lakes Region and Southern Africa (Lomé, Togo, 24-25 April 2008); (iv) Central Asia (Almaty, Kazakhstan, 24-25 September 2008); (v) the Middle East and the Mediterranean (Rabat, Morocco, 19-20 November 2008); and (vi) South, Southeast Asia and the Pacific (Kathmandu, Nepal, 17-18 December 2008). A concluding workshop in Geneva (February 2009) evaluated the project and the lessons learned.⁹

12. At the initiative of the Senegalese chair of the 2009 CCW Meeting of States Parties, the 15th session of the African Union Summit took a decision on the CCW and appealed to all of its members to join the Convention and its Protocols. That decision reaffirmed “the need to take on board the interests and views of African countries during international negotiations including those held within the context of the [CCW]”. It went on to invite “African States to massively accede to this Convention in order to strengthen their contribution to the building and consolidation of International Humanitarian Law,

⁷ CCW/MSP/2008/INF.2, paragraph 8; and CCW/MSP/2010/4, paragraph 4(d).

⁸ CCW/MSP/2008/INF.2, paragraph 7 and CCW/MSP/2010/4, paragraph 4(c).

⁹ CCW/MSP/2009/3, paragraph 4(d).

particularly the formulation of international rules for the control of conventional weapons”.¹⁰

13. The International Committee of the Red Cross organized the Second Regional Seminar on the implementation of international humanitarian law (IHL) in St Petersburg from 27 – 29 May 2009. Delegations from Armenia, Azerbaijan, Belarus Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Turkmenistan and Ukraine attended. During the seminar the role of the CCW and its Protocols in protecting civilians and addressing the humanitarian challenges posed by conventional weapons was promoted.

D. First Committee resolutions and actions taken

14. In the context of the sixty-second session of the United Nations General Assembly, and during the course of the meetings of the First Committee (Disarmament and International Security Committee), at United Nations Headquarters (New York, 23 October 2007), the President of the Third Review Conference, reported to the Committee reporting on the adoption of the Plan of Action, and efforts and achievements of the States Parties to the Convention pursuant to the Plan of Action. States were invited to consider taking appropriate actions that would serve the achievement of universal adherence to this important international legal instrument. Since then each President of the Meeting of High Contracting Parties has continued to provide detailed reports to the First Committee on the Plan of Action.

15. Each year at the First Committee of the General Assembly, Sweden has led the resolution on the CCW. That resolution has consistently called on States not party to join the CCW, called on States Parties to consent to be bound to Amended Article 1 and the Protocols, and emphasized the importance of universalization of Protocol V.

E. Other actions by individual States Parties

16. Important work has been carried out by some States Parties to promote the universalization of the Convention and its Protocols through bilateral approaches. For example, Japan has reported on the number of countries it approached in the Asia Pacific region to encourage them to become party to the Convention.¹¹ Another example was Portugal which organized a seminar on the Humanitarian Conventions for Portuguese speaking countries during June 2010 in Lisbon. The seminar actively promoted universalization of the CCW and its Protocols. In 2011, Portugal urged the authorities of Angola, Mozambique, Democratic Republic of Sao Tome and Principe, and Timor Leste to join the CCW and attend the Fourth Review Conference. It also appealed to the Republic of Cape Verde to join Protocol V.

17. Other States Parties to report on their internal reviews on becoming party to all of the CCW’s instruments and/or their efforts to promote universalization of the Convention and its Protocols since the Third Review Conference were Australia, Belarus, Brazil, Canada, Chile, China, Cyprus, Estonia, European Union, Israel, Italy, Japan, Mexico,

¹⁰ Decision on the Accession of African Countries to the Convention on Banning the Use of Certain Conventional Weapons with a Traumatic Effect or Which Strike Indiscriminately, Doc. Assembly/AU/17 (XV) Add. 2.

¹¹ For example, see CCW/MSP/2009/3.

Monaco, Republic of Moldova, Peru, Portugal, Romania, Russian Federation, Senegal, Slovakia, Spain, and The Former Yugoslav Republic of Macedonia.¹²

F. The Sponsorship Programme

18. The Steering Committee of the Sponsorship Programme¹³ been focused on the universalization of the Convention and its Protocols. One of the basic objectives of the Sponsorship Programme was to 'Provide Signatory States and non-State Parties with an opportunity to participate in activities related to the Convention and therefore become acquainted with its work. Preference should be given to States that are Least Developed Countries, those that are on the path to accession to the Convention and its Protocols, those that are engaged in activities related to their own implementation of the Convention and its Protocols'. From 1 November 2007 to 31 October 2011, 145 delegates and experts have benefited from the Sponsorship Programme.¹⁴

G. New ratifications since the 2006 Review Conference

A snapshot of progress since the Third Review Conference

19. Since 2006 significant progress has been made on universalization. Much of this can be attributed to the leadership demonstrated by the office holders of the Convention, Amended Protocol II and Protocol V; the efforts of States Parties both bilaterally and regionally; the role of the Sponsorship Programme in increasing awareness of the Convention and its Protocols, and the support provided by the United Nations and other international organizations.

20. The following is a snapshot of the progress that has been made over the past five years:

(a) With 14 new States Parties, the total number of States Parties to the Convention stands at 114.

(b) At the time of the Third Review Conference, 44 States had become party to Amended Article 1 of the Convention and now the total is 75.

(c) Protocols I, III and IV attracted 12, 13 and 14 new States Parties respectively. The total numbers of High Contracting Parties are for Protocol I - 110, Protocol III - 106 and Protocol IV - 100.

(d) Protocol II has 4 new High Contracting Parties and Amended Protocol II has 11 with the latter now having a total of 97

¹² Written information on CCW universalization was provided by Australia, Belarus, Brazil, Canada, Chile, China, Cyprus, Estonia, European Union, Israel, Italy, Japan, Mexico, Moldova, Monaco, Peru, Portugal, Romania, Russian Federation, Senegal, Slovakia, Spain and the Former Yugoslav Republic of Macedonia.

¹³ States Parties that contributed to the Sponsorship Programme were: Australia, Canada, China, Denmark, France, Hungary, India, Lithuania, the Netherlands, Spain, Turkey and the European Commission. Switzerland, through its general contribution to the GICHD, covered the costs of the administration of the Programme.

¹⁴ A list of countries and projects which received support from the CCW Sponsorship Programme can be found in *Report of the Sponsorship Programme*, 30 September 2011 (CCW/CONF.IV/7) submitted by the Steering Committee to the Fourth Review Conference.

(e) Unsurprisingly, Protocol V has attracted the largest number of new States Parties. Since the Third Review Conference it has 48 new States Parties, which brings its total number to 75.

An Accelerated Plan of Action on Universalization

21. The Fourth Review Conference is an important opportunity for States Parties to take stock of the significant progress made on universalization and to set priorities for the next five years. With 114 States Parties to the CCW, much more remains to be done.

22. States Parties may wish to consider a Plan of Action to accelerate CCW universalization with the following recommendations:

(a) Recognizing that universalization is critical to the success of the Convention and its Protocols as major International Humanitarian Law treaties and positive progress has been achieved since the Third Review Conference. With the total number of States Parties to the Convention standing at 114, universalization must continue to be a priority issue.

(b) Reaffirming their commitment to the Plan of Action agreed to at the Third Review Conference.

(c) Prioritizing universalization efforts on Signatory States, States not party from conflict zones, mine and explosive remnants of war affected States not party and regions with low levels of adherence to the Convention.

(d) For all States Parties to seize all relevant opportunities to promote the Convention and its Protocols, especially through their bilateral contacts.

(e) For all States Parties and the CCW Implementation Support Unit, United Nations Office of Disarmament Affairs, and other United Nations structures and agencies to work with international organizations, regional organizations, International Committee of the Red Cross, parliamentarians, civil society and other stakeholders to promote universality.

(f) Urging the CCW Sponsorship Programme to explore all avenues and opportunities to advance universalization of the Convention and its Protocols.

(g) Calling on the United Nations Secretary-General to use all available channels to promote the universalization of the Convention and its Protocols, including through the Disarmament Regional Centers in Lima, Lomé and Kathmandu.

(h) Requesting the CCW Implementation Support Unit to assist States Parties efforts to promote universalization, gather information on States not party and work towards the objective of universal adherence to the Convention and its Protocols

(i) Further requesting the CCW Implementation Support Unit to continue to report annually to the Meeting of States Parties on the efforts undertaken towards and progress made on universalization.

(j) Establishing 'Universalization of the Convention and its Protocols' as a standing agenda item of the annual Meetings of States Parties under which the President-designate, States Parties, United Nations, International Committee of the Red Cross, regional organizations and other organizations would exchange information and report on their respective efforts to promote universalization.

Annex

List of States Parties that have acceded to the CCW and all of its Protocols, including the amendment to Article 1 of the Convention

Albania	Jamaica
Australia	Latvia
Austria	Liberia
Belarus	Liechtenstein
Belgium	Lithuania
Bosnia and Herzegovina	Luxembourg
Brazil	Malta
Bulgaria	Netherlands
Canada	New Zealand
Chile	Nicaragua
China	Norway
Costa Rica	Panama
Croatia	Paraguay
Czech Republic	Peru
Denmark	Portugal
Ecuador	Republic of Moldova
El Salvador	Romania
Estonia	Russian Federation
Finland	Sierra Leone
France	Slovakia
Georgia	Slovenia
Germany	Spain
Guatemala	Sweden
Guinea-Bissau	Switzerland
Holy See	The former Yugoslav Republic of Macedonia
Hungary	Tunisia
Iceland	Ukraine
India	United States of America
Ireland	Uruguay
Italy	
