
**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**

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Summary record of the 5th meeting

Held at the Palais des Nations, Geneva, on Thursday, 24 November 2011, at 3 p.m.

President: Mr. Ganev(Bulgaria)

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The meeting was called to order at 3.30 p.m.

Report of the Credentials Committee

1. **Ms. Rahamimoff-Honig** (Israel), speaking as Chairperson of the Credentials Committee, recalled that at its first plenary session, held on 14 November 2011, the Fourth Review Conference had decided to appoint the representatives of Cuba, Germany and Romania as Committee members, the representative of India as Vice-Chairperson and the representative of Israel as Chairperson. Ms. Mercogliano, Political Affairs Officer of the Office for Disarmament Affairs, would serve as Committee secretary. The Committee had met on 15, 18 and 23 November 2011 to examine the credentials received as of those dates from the representatives of States parties participating in the Conference. The Committee had taken note of the information contained in the tables drawn up by the Implementation Support Unit submitted to the Committee, and had decided to accept the credentials of those States that had submitted formal credentials in due form, and the provisional credentials presented by some States, on the understanding that the originals of the credentials of the latter States would be submitted as soon as possible, in accordance with Rule 3 of the Rules of Procedure. The Committee had also invited those States that had not yet done so to submit to the Secretary-General of the Conference the credentials of their representatives.

2. She pointed out that the version of the report that had been circulated in the room (CCW/CONF.IV/CC/1), which the Committee recommended should be adopted in principle, would soon be updated in order to incorporate a number of editorial changes.

Report of the Drafting Committee

3. **Mr. Rosocha** (Slovakia) said that the main task of the Drafting Committee had been to consider the text of the draft protocol on cluster munitions, issued on 24 November 2011 under the symbol CCW/CONF.IV/9/Rev.1, prior to its submission to the Conference in plenary session. He invited the delegations to examine the different language versions of the document, which would shortly be available, in order to ensure concordance.

4. At its meetings, the Drafting Committee had also considered two texts covered by the mandate of Main Committee I: one on an accelerated plan of action on universalization of the Convention and its annexed Protocols and the other on the Sponsorship Programme. Both texts had been published in the annexes to the draft final document of the Conference (CCW/CONF.IV/L.1/Rev.1).

Report of Main Committee I

5. **Mr. Domingo** (Philippines), speaking as Chairperson of Main Committee I, said that, from 16 to 23 November 2011, Main Committee I had held three plenary meetings and two informal consultations, which had resulted in the adoption of decisions on mines other than anti-personnel mines and an accelerated plan of action on universalization of the Convention and its annexed Protocols, together with recommendations on the Sponsorship Programme and on enhancing the implementation of the compliance mechanism for the Convention and its annexed Protocols. A schedule for meetings for work under the Convention in 2012 had also been adopted. Main Committee I recommended that the Conference adopt the draft final document (CCW/CONF.IV/L.1/Rev.1).

6. The report of Main Committee I would be circulated under the symbol CCW/MC.I/3. Outstanding issues remained with regard to Protocol III, on which he would welcome any further updates from concerned delegations. He thanked all delegations for the input, proposals and ideas received over the previous two weeks.

7. **Ms. Dosoretz** (Israel) suggested, having consulted with the relevant parties, that in the draft final document (CCW/CONF.IV/L.1/Rev.1) the following sentence should be added after the second paragraph relating to the review of Protocol III: “The Conference further notes that there was no agreement on various aspects of this matter.”
8. **Mr. Spector** (United States of America) said that, during the most recent informal consultations, it had been agreed to delete the last paragraph of the text in question and to add, in the draft final document, after the second paragraph relating to the review of Protocol III, the following sentence: “The Conference recalls the basic principle that reservations to the Convention or its Protocols must be in accordance with the object and purpose of the Convention or its Protocols, respectively.”
9. **The Chairperson** said he took it that the Conference wished to insert the proposed amendments in the draft final document.
10. *It was so decided.*

Report of Main Committee II

11. **The Chairperson** said he had been informed by Mr. Danon, Chairperson of Main Committee II, that Main Committee II had completed its work and that its report would be issued under the symbol CCW/CONF.IV/MC.II/3 as soon as possible. He gave the floor to delegations wishing to make a general statement on the draft protocol on cluster munitions, on which the Committee had been instructed to carry out further work.
12. **Mr. Uliyanov** (Russian Federation) said that while the delegation of the Russian Federation was fully aware of the serious humanitarian problems caused by the use of cluster weapons, it was not ready to abandon such weapons at that stage, not least for reasons of national defence. However, the Russian Federation supported the adoption of the draft protocol under discussion, despite the enormous costs that its implementation would entail, particularly in the context of the current economic and financial crisis. The delegation of the Russian Federation had shown the greatest possible flexibility in the difficult negotiations held between the States parties, and did not accept the “all or nothing” approach being taken by those opposed to the draft protocol, who claimed that the envisaged protocol would play into the hands of the major producers and users of cluster munitions. Moreover, the provisions of the text under discussion provided for the elimination and prohibition of a greater number of cluster munitions than the number formally prohibited under the Oslo process. Therefore, if it were adopted, Protocol VI would make the world a safer place.
13. The delegation of the Russian Federation was in favour of taking a rational, pragmatic approach, believing that protocol VI and the Oslo Convention could perfectly well coexist and complement each other, which would be a step in the right direction. However, if protocol VI were rejected, the Russian Federation would naturally not consider itself bound by any obligations in the area of cluster munitions. He expressed the hope that during the remaining hours of negotiations, the Conference participants would live up to their responsibilities and — guided by humanitarian considerations, a sense of realism and a pragmatic approach — adopt draft protocol VI on cluster munitions.
14. **Mr. Singh Gill** (India) said that, while the draft protocol proposed for adoption after four years of discussion and intense work might not be perfect, the instrument would nevertheless have an immediate, far-reaching humanitarian impact, which should satisfy all parties. While major users and producers of cluster munitions were currently not bound by any obligation, the wide range of prohibitions and restrictions provided for under the draft protocol meant that 85 per cent of worldwide stocks of cluster munitions would fall within its regulatory ambit. In addition, the adoption of draft protocol VI would not detract from the legitimacy of any other initiatives taken by a number of member States. A spirit of

mutual respect alone would enable shared goals to be achieved. Furthermore, the draft protocol under discussion was not definitive in nature and could be revisited if the humanitarian concerns arising from the use of cluster munitions were not deemed to have been adequately addressed.

15. He expressed disappointment that advocates of the Oslo Convention had been unable to agree to the incorporation of some of the provisions of the text into Technical Annex A. There was no comprehensive ban on cluster munitions in any international instrument currently in force; the mandate given to the Group of Governmental Experts by the High Contracting Parties to the Convention on Certain Conventional Weapons in that regard was clear, focusing on the need to strike a balance between military and humanitarian considerations. It therefore made sense that the envisaged prohibitions or restrictions only applied to cluster munitions produced before 1980.

16. Considering that, as it stood, the current draft protocol provided a valuable opportunity not only to strengthen humanitarian law and add another stone to the edifice of the Convention, but also to increase the protection of civilians in war, to make greater resources available for victim assistance and clearance of cluster munition remnants, and to regulate the use of a given class of weapons, his delegation firmly supported the adoption of draft protocol VI on cluster munitions.

17. **Mr. Spector** (United States of America) said that the United States of America strongly supported draft protocol VI in its current form, which contained a comprehensive set of provisions that would have an immediate and substantial humanitarian impact on the ground, and would provide additional benefits over time, after the period of deferred compliance. Without the draft protocol, however, the major users and producers of cluster munitions, which possessed between 85 and 90 per cent of worldwide stocks but did not intend to be bound by the Convention on Cluster Munitions, would be permitted to retain millions of cluster munitions produced before 1980 — most of which had no safety mechanism — and would not be obliged to improve them technically in future. The only restraints relating to cluster munitions would therefore be those provided for by the Convention on Certain Conventional Weapons, including with regard to design, production, storage, transfer, marking, clearance, transparency and victim assistance. In that case, those opposing the draft text would have to accept their share of responsibility.

18. While the provisions of draft protocol VI might not go far enough for some, including many States parties, or signatories, to the Oslo Convention, the text was the result of compromise and had already evolved considerably with regard to issues such as the reliability of cluster munitions, the period of deferred compliance and concerns about compatibility with the Convention on Cluster Munitions; the wording of the preamble had also evolved. The draft protocol therefore represented a significant step forward in the development of international humanitarian law. The Convention on Certain Conventional Weapons had the advantage of bringing together a broad group of States, with diverse interests. Many of those States had made enormous concessions since the Third Review Conference, when they had considered the very idea of a protocol on cluster munitions to be inconceivable. He urged the participants to seize the valuable opportunity on offer to work towards achieving their goal — the protection of civilians — even if they had to work on different fronts, which were not incompatible.

19. **Ms. Rahamimoff-Honig** (Israel) said that the most recently revised version of draft protocol VI, which represented a good compromise, had required Israel to make significant concessions, given the cost implications and the sensitive national security issues involved. Nevertheless, Israel had decided to support the text proposed by the Chairperson of Main Committee II, taking into account the need to regulate the use of cluster munitions in order to strike a balance between humanitarian and military considerations, and the real effect the protocol would have on the ground. In conclusion, she recalled that, without such an

instrument, States that were not, and did not intend to become, parties to the Convention on Cluster Munitions, would remain outside the ambit of any regulatory framework on cluster munitions. In that regard, she invited those who opposed the draft protocol to consult their own conscience.

20. **Mr. Dengo Benavides** (Costa Rica) said that he was speaking on behalf of Costa Rica and the following 47 States: Afghanistan, Angola, Austria, Burkina Faso, Chile, Colombia, Congo, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, El Salvador, Ghana, Guatemala, Guinea, Haiti, Holy See, Honduras, Iceland, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Madagascar, Mali, Mexico, Mozambique, Namibia, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Senegal, Slovenia, South Africa, Spain, Sudan, Togo, Tunisia, Uganda, Uruguay, Venezuela (Bolivarian Republic of), Zambia and Zimbabwe.

21. Those States considered that the version of the draft protocol under discussion ("Advance Version, Rev.2", unofficial document dated 23 November 2011), by authorizing the use of weapons that were known to cause suffering to civilians because of their indiscriminate effects, ran counter to the overall objective of the Convention. The text did not reflect the concerns that had been repeatedly expressed by a large number of speakers, or the comments and proposals made. In addition, with regard to the actual negotiation process itself, the fact that the views and concerns of only a limited number of High Contracting Parties and observer States had been reflected in the text showed that there were different understandings of how multilateral forums should function. It therefore came as no surprise that the draft protocol did not meet with a consensus.

22. **Mr. Zhang Ze** (China) said that the text under discussion presented a number of advantages, one of which was that by acceding to the protocol, States not parties to the Convention on Cluster Munitions would enter into legally binding commitments aimed at ensuring maximum protection of civilians. Everyone would lose out if the proposed text were not adopted, and the political momentum required to regulate the issue of cluster munitions would wane as a result. China alone could not change the direction the negotiations were taking, and he therefore urged States parties to give serious thought to what was at stake. For China, adoption of draft protocol VI would strengthen, not weaken, the status of the Convention on Cluster Munitions. At such a historic turning point in the negotiations, all participants were invited to give careful thought to the matter and decide wisely.

23. **Mr. Maimeskul** (Ukraine) said that he supported the statements made by the Russian Federation, India, United States of America, Israel and China. Despite the concerns that had already been expressed by Ukraine in the previous four years with regard to financial and material matters, the State party wished to promote the common cause of protecting civilians from the indiscriminate effects of cluster munitions. The delegation of Ukraine therefore supported the draft protocol, which reflected a delicate compromise that would immediately make the world a safer place. He invited other delegations to also express their support for the draft protocol.

24. **Mr. Uhorych** (Belarus) said that the version of draft protocol VI under discussion had changed considerably from the version proposed in August 2011, and did not meet the expectations of Belarus to the same degree. However, in the spirit of compromise and flexibility called for by the delegations of the Russian Federation, Israel, United States of America and China, and given that the current text would allow progress to be made in resolving the problems posed worldwide by cluster munitions, the delegation of Belarus was prepared to approve the draft protocol as proposed.

25. **Mr. Arias Palacio** (Bolivarian Republic of Venezuela) said that while his delegation had, from the outset, supported the efforts made to resolve the humanitarian

problems caused by the use of cluster weapons, everybody had seen how economic and military interests had taken precedence over humanitarian considerations. While the ideal solution would be a legally binding instrument providing for a comprehensive ban on the production, storage, use and transfer of cluster munitions, which would strengthen international humanitarian law, nothing could justify approving a text that was unacceptable insofar as it legitimized cluster munitions.

26. **Mr. Kongstad** (Norway) said that the successive versions of the draft protocol on cluster munitions — weapons that were incompatible with the aim of the Convention on Certain Conventional Weapons — amounted to no more than attempts to weaken international humanitarian law by establishing less stringent humanitarian standards. It therefore came as no surprise that the draft protocol, as it stood, had not met with a consensus. The delegation of Norway categorically rejected the approach whereby something was better than nothing, and considered it essential that producers and users of cluster munitions should commit to taking steps to eliminate such weapons. Furthermore, it was important to take into consideration the concerns expressed by the International Committee of the Red Cross (ICRC) and other humanitarian organizations about the process that was under way, together with their advice and descriptions of the situations on the ground they had given in their statements.

27. **Mr. Fasel** (Switzerland) said that he wondered how likely it was that the Conference participants would reach agreement on draft protocol VI. In order for the draft protocol to be adopted, it would have to be complementary to, and compatible with, the existing instrument — the Convention on Cluster Munitions. One issue that arose was that of lines that could not be crossed, in particular the “red line” of the humanitarian content of the protocol. With regard to complementarity, it had clearly been impossible to strike a balance between military and humanitarian considerations. With regard to compatibility, he said that one could not really blame States parties to the Oslo Convention, under which all cluster munitions were banned, for refusing to take responsibility for the harmful humanitarian effects of cluster munitions, the use of which the current draft protocol appeared to authorize. The delegation of Switzerland wished the Conference to continue to explore all possibilities for the adoption of a protocol on cluster munitions.

28. **Mr. Buhne** (United Nations Development Programme – UNDP) said that, while he welcomed the efforts made to bridge the gap between the divergent positions, for UNDP — which was present on the ground — a comprehensive ban on cluster munitions was the only viable way to protect civilians from the effects of such weapons. The draft text under discussion, however, fell far short of guaranteeing their protection: if it were adopted, it would allow the use of cluster munitions produced after 1 January 1980 and would weaken the legal protections in place, thereby setting a disturbing precedent in the area of international humanitarian law.

29. **Mr. Singh Gill** (India), raising a point of order, asked on what basis the representative of UNDP had been allowed to take the floor to make a statement on the intergovernmental negotiations that were still in progress.

30. **The Chairperson** took note of the point raised by the representative of India.

31. **Mr. Uliynov** (Russian Federation) objected that the question put by the representative of India deserved an answer; it was necessary to establish whether the representative of UNDP, in his statement, had been expressing the political views of the United Nations Organization or his personal opinion, and who had authorized him to do so. It was a matter of principle, which should be resolved in order to prevent such political statements from becoming common practice in the work of the States parties to the Convention.

32. **The Chairperson** explained that he wished simply to take note of the point raised by the representative of India. It was not appropriate to rule on the matter at a Review Conference, and in any case the point raised went beyond the scope of the discussion, the aim of which was to sum up the views of the delegations.

33. **Mr. Combrink** (South Africa) said that South Africa, which had been aware from the outset of the difficulty of negotiating a protocol on cluster munitions, had continuously supported the work carried out in the framework of the Convention on Certain Conventional Weapons. South Africa had been a leading player in the adoption of the Convention on Cluster Munitions and, as a State that had signed and was in the process of ratifying the instrument, was obliged to ensure that it was not undermined by the adoption of a contradictory instrument — such as the current draft protocol VI — that would legitimize and allow, explicitly or implicitly, the use of cluster munitions, which was prohibited under the Oslo Convention.

34. One of the constant challenges over the past four years had been the concept of “key States”, used to refer to the major producers and users of cluster munitions, which had hindered multilateral negotiations and created the impression that a special status had been conferred upon the States in question. The views and concerns of all High Contracting Parties were of equal importance.

35. The African continent accounted for nearly one third of the countries and territories affected by cluster munitions; the continued use of cluster munitions undermined the focus of South African foreign policy, which was the collective promotion of peace, security and prosperity on the continent and, more broadly, the universally acknowledged goal of a consistent international order that applied equally to all States throughout the world. In view of the lack of agreement at the Conference, it was unlikely that a credible instrument could be concluded in the near future, and South Africa was not able to subscribe to the draft protocol in its current form.

36. **Mr. Thammavongsa** (Lao People’s Democratic Republic), recalling that the Lao People’s Democratic Republic had associated itself with and supported the statement made by the representative of Costa Rica on behalf of 48 countries, said that it was a matter of regret that after four years of work, and two weeks of intense negotiations, it had not been possible to reach a consensus on an international instrument that would protect civilians from the possible use of weapons that — as his country was only too well aware, being one of those most affected by cluster munitions — caused unacceptable harm to innocent civilians. In its current form, the draft protocol ran counter to international humanitarian law, in that it explicitly authorized such weapons.

37. **Mr. Mallikourtis** (Greece) said that, for some States, not having been able to accede to the Convention on Cluster Munitions did not prevent them from sharing the humanitarian concerns that underpinned that Convention and from being willing to ban the use of the most deadly cluster munitions. Whatever they thought of the draft protocol under discussion, the High Contracting Parties to the Convention on Certain Conventional Weapons must understand that, if the protocol were not adopted, there would be nothing to regulate the use of cluster munitions by those who used them most. That was not the way to improve the humanitarian situation in conflict and post-conflict situations.

38. **Ms. Nordberg** (Finland) urged delegations to settle their differences of opinion and to successfully conclude the negotiations on draft protocol VI, the adoption of which would have a significant humanitarian impact.

39. **Mr. Wolter** (Germany) said that the delegation of Germany had always believed that the adoption of a legal instrument regulating the use of the cluster munitions stigmatized by the Oslo Convention could, in tandem with that convention, considerably reduce the humanitarian problems caused by cluster munitions. The text of the draft

protocol was in line with that aim. While it would have been desirable to reach a compromise on certain issues, along the lines of the proposals by the delegations of Switzerland and South Africa, it might still be possible to reconcile the different points of view concerning the use of cluster munitions, and to adopt the draft protocol.

40. **Mr. Gómez Camacho** (Mexico), recalling that Mexico had associated itself with the statement made by the representative of Costa Rica on behalf of 48 countries, said that the delegation of Mexico had participated, from the outset, in the negotiations on a protocol on cluster munitions in the hope of arriving at a text that managed to strike a balance between the principles expressed by all parties at the outset. However, those principles had turned out to be irreconcilable, with some States — including Mexico — believing that cluster munitions should simply be banned and destroyed, and others believing that their use could be tolerated under certain conditions. Much mention had been made of the political responsibility of States that refused to adopt the draft protocol. Mexico accepted that responsibility, and at the same time defended the moral responsibility of States and the ethical principles that opposed the unrestricted use of weapons likely to cause unacceptable harm to innocent civilians. The instrument under discussion would have the effect of legitimizing the continued existence and use of a large number of such weapons. That being said, the delegation of Mexico was willing to continue negotiations up to the end of the Conference, in the hope of reaching a consensus on a text.

41. **Mr. Kmentt** (Austria) said that he, too, was disappointed with the outcome of the negotiations that the High Contracting Parties to the Convention on Certain Conventional Weapons had entered into, within the framework of the United Nations system, in order to reach agreement on intermediate steps to alleviate the humanitarian problems caused by cluster munitions. It was a matter of particular regret that, during the negotiations, the humanitarian concerns expressed not only by organizations such as the International Committee of the Red Cross and the United Nations entities on the ground, but also by a large number of participating States, had not been taken into account. Nor had any serious consideration been given to constructive proposals such as the alternative draft protocol that had been submitted by Austria, Mexico and Norway, with the aim of introducing a number of humanitarian steps. It was that refusal to take the views of others into account — despite the multilateral nature of the negotiations — that was to blame for the lack of consensus on the draft protocol, not the existence of the Convention on Cluster Munitions and its supporters. It was true that Austria, like other States taking part in the negotiations on protocol VI, had always maintained that it would not be in a position to agree to a legal instrument that would legitimize the use of cluster munitions and would be incompatible with the commitments made under the Oslo Convention. However, Austria had never wanted to force any States to become parties to that Convention. If the current main users of cluster munitions intended to continue to use such weapons, they bore sole responsibility for that. There was nothing to prevent them from taking whatever humanitarian steps they believed to be necessary, at national level and in cooperation with the main producers, even in the absence of any protocol governing the issue.

42. **Mr. Endoni** (Observer for Nigeria), recalling that Nigeria had associated itself with the statement made by the representative of Costa Rica on behalf of 48 countries, said that greater focus should be placed on humanitarian considerations in the work carried out under the Convention, to which Nigeria was a signatory State. The aim of the Convention was to prohibit or restrict the use of certain conventional weapons, not to legitimize their use. For that reason, Nigeria could not accept a decision that would allow the continued existence or use of cluster munitions.

43. **Ms. Silde** (Estonia) said that the delegation of Estonia, which had expressed its appreciation for the manner in which the draft protocol had evolved over the year, believed that the Conference had now — after 10 days of work — reached a compromise solution

which, while not perfect, nevertheless addressed the concerns expressed by all sides. The resulting text was complementary to and compatible with the Convention on Cluster Munitions. The delegation of Estonia fully supported, therefore, the draft protocol under consideration.

44. **Mr. Benevides** (Brazil) said that the most recent version of draft protocol VI took into consideration most of the concerns and views that had been expressed by the group of States on behalf of which the representative of Costa Rica had spoken. It was true that the text could be improved still further in order to make it completely consistent with existing agreements. He urged all delegations to make one last effort, and not to miss the opportunity provided by the Conference to adopt a protocol that would subject cluster munitions to strict prohibitions or restrictions on their use and would ultimately have a real humanitarian impact.

45. **Mr. Stănicel** (Romania) said that Romania was ready to support the most recent version of the draft protocol on cluster munitions, since the text fulfilled the initial objective, which was to strike a balance between and military and humanitarian considerations, and contained all the elements necessary to regulate the use of the weapons in question and radically reduce the humanitarian impact of their remnants. Some States taking part in the negotiations did not share that point of view, believing that the final text did not meet their expectations with regard to humanitarian considerations. However, the usefulness and effectiveness of such a protocol would only be proven once it had been implemented and results obtained on the ground.

46. **Mr. Gil Catalina** (Spain) said that, clearly, despite the progress made, much remained to be done before a consensus could be reached on the draft protocol on cluster munitions. Further, he noted that the argument of assuming moral responsibility in the event that the draft protocol were not adopted, directed at States that were in favour of the Convention on Cluster Munitions and against the draft protocol, was unacceptable.

47. **Mr. Wesseh** (Liberia) said that Liberia associated itself with the statement made by the representative of Costa Rica on behalf of a number of other States. He deplored the use of doublespeak in the negotiations and would prefer States in favour of the draft protocol to state clearly the reasons why. The delegation of Liberia, for its part, called for a complete ban on cluster munitions.

48. **Mr. Ali Khan** (Pakistan) said that he was disappointed with the draft protocol, which simply established different categories of cluster weapons. A disarmament instrument, however, could not and should not be based on such considerations. He reiterated the importance of pooling technologies in order to limit the repercussions of the use of cluster weapons. He had noted no objections to his proposal in that regard, and was therefore surprised to see that it had not been incorporated into the text of the draft protocol; he continued to insist that it should be.

49. **Mr. Kucer** (Slovakia) said that while the delegation of Slovakia did not consider the text of the draft protocol to be perfect, it did serve the purpose of providing a practical solution to the issue of cluster munitions in order to improve the situation on the ground. He called upon all delegations to harness real political will in order to try to reach a consensus on the draft.

50. **Mr. Lusiński** (Poland) said that draft protocol VI, which was the fruit of lengthy work carried out with all States parties and stakeholders, offered a valuable way forward, which should be appreciated and respected by all bodies, whether governmental, non-governmental or international. He proposed that the text should be adopted in that spirit.

51. **Mr. Lee Joo-il** (Republic of Korea) said that the delegation of the Republic of Korea was not entirely satisfied with the draft protocol, which did not represent a true

compromise. He hoped it would be possible to draw up, with the participation of the main producers and users of cluster munitions, a protocol that would make a real difference on the ground.

52. **Mr. Guillermet Fernández** (Costa Rica) said that he was able to speak freely at the Conference, and was not accountable to the military, since Costa Rica did not have an army. Costa Rica complied with certain principles, which were non-negotiable. Compliance with the provisions of the Convention on Cluster Munitions was one of them. In the current negotiations, some States apparently carried more weight than others because they used or produced cluster munitions. While it was important to listen to what diplomats had to say, it was also important to listen to the victims of cluster munitions. If there was a political price to pay for opposing such weapons, it was a fair price to pay, and one that Costa Rica was prepared to pay, just as many other countries were.

53. **Ms. Golberg** (Canada) said that it was a matter of regret that negotiations on the draft protocol had reached a deadlock, but that the possibilities for striking the desired balance between political and military considerations on the one hand, and humanitarian considerations on the other, had certainly not all been exhausted. Recalling that Canada had signed the Convention on Cluster Munitions, she said she had the impression that some States wanted to make those who had expressed concern about the draft protocol feel guilty. Nevertheless, Canada remained willing to try to help move the negotiations forward.

54. **Mgr. de Gregori** (Holy See) said that the Holy See, which also defended a number of principles, associated itself with the statement made by the representative of Costa Rica. States that made veiled threats, when speaking of responsibility, should let themselves be guided by goodwill and common sense, and put an end to the use of cluster munitions.

55. **Mr. Herby** (International Committee of the Red Cross) said that the International Committee of the Red Cross appreciated the fact that several of the main users of cluster munitions had taken note of the serious, unacceptable humanitarian repercussions of the use of such weapons and were ready to adopt a number of progressive measures in that regard. In the context of the Conference, the issue was whether measures based on technologies known to cause humanitarian problems, and expected to continue to cause such problems, should be introduced into an instrument of international humanitarian law designed to address those problems in an urgent manner. The “positive” measures should be compared to the human cost of the use of large quantities of cluster munitions over a period of 12 years, or indefinitely, as authorized by the draft protocol. Given that the basic provisions of the draft protocol had not changed since the start of the Review Conference, the text did not constitute an appropriate, urgent response to the humanitarian problems that had been raised, and ran the risk of perpetuating many aspects of those problems. The draft protocol would also set an unfortunate precedent in international humanitarian law.

56. **Mr. Goose** (Cluster Munition Coalition) said there had been no improvement to the text of the draft protocol after two weeks of negotiations, and that its adoption could result in the use of an even greater number of cluster munitions. As it stood, the text authorized the use of most of the weapons the States that supported it held in their arsenals. Further, the text contained a large number of exceptions, exemptions and get-out clauses, provided legal and political justification for the continued use of cluster munitions and would weaken humanitarian law, while setting a damaging precedent. The ban on the use of cluster munitions produced before 1980 was presented as the main improvement to the draft protocol in terms of humanitarian considerations, and as the main concession made by those in favour of the text. However, as was well known, with or without a protocol, those weapons were obsolete and needed to be destroyed. In other words, States that used cluster munitions would continue to do what they had done before. Despite having been revised three times, the draft text had retained its three major flaws: it authorized indefinite use of cluster munitions with a single safety device; it authorized indefinite use of cluster

munitions with a failure rate of under 1 per cent; and it provided for a longer transition period, during which use of the most dangerous types of cluster munitions would be authorized.

57. **Mr. León Collazos** (Peru) said that Peru had signed the Convention on Cluster Munitions and was very attached to the principles and humanitarian considerations driving that instrument. Peru was in favour of all negotiations that took place within the framework of the Convention on Certain Conventional Weapons, provided that they resulted in a text that was progressive in relation to the system under the Oslo Convention. He therefore invited the High Contracting Parties to be flexible in their negotiations, in order to draw up a balanced and consensual text.

58. **Mr. Dewaegheneire** (Belgium) said that Belgium was very committed to the Oslo process and noted with regret the considerable divergence of views between advocates of the Convention on Cluster Munitions and those who supported draft protocol VI. He invited all countries that had said in the meeting that they were against the draft protocol to become parties to the Oslo Convention as soon as possible. It was to be hoped that, for those in favour of draft protocol VI, reason and humanitarian considerations would prevail.

59. **Mr. Arafa** (Lebanon), recalling that Lebanon had pledged its commitment, alongside the other States on whose behalf the representative of Costa Rica had made a joint statement, said that Lebanon also endorsed the statements made by NGOs and bodies such as the International Committee of the Red Cross. Within the framework of the Conference, it was important to take note of the fact that cluster munitions were inhuman and degrading, that their use had socioeconomic repercussions and that it was necessary to take action to address the problem, possibly by taking national measures in the event that the current negotiations failed. It might be appropriate for the Conference to make a statement reaffirming the inhuman nature of cluster munitions and its attachment to the principles established in many of the texts that had already been adopted and were in force at international level.

61. **Mr. Valencia-Muñoz** (Colombia) said that Colombia had associated itself with the joint statement made by the representative of Costa Rica. The draft protocol was in fact problematic in terms of its approach, not its wording, and would not strengthen the Convention on Certain Conventional Weapons. The delegation of Colombia preferred to listen to what civil society, and victims, had to say, rather than to representatives of the industry and defence sectors.

The meeting rose at 6.05 p.m.