
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

21 December 2011

Original: English

Geneva, 14–25 November 2011

Summary record of the 6th meeting

Held at the Palais des Nations, Geneva, on Friday, 25 November 2011, at 3 p.m.

President: Mr. Ganev(Bulgaria)

Contents

- Report of the Credentials Committee
- Report of the Drafting Committee
- Consideration and adoption of the final documents
- Closing statements of delegations
- Closure of the Conference

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of this Conference will be consolidated in a single corrigendum, to be issued shortly after the end of the Conference.

The meeting was called to order at 4.30 p.m.

Report of the Credentials Committee (CCW/CONF.IV/CC/1/Rev.1)

1. **The President**, drawing attention to the revised report of the Credentials Committee (CCW/CONF.IV/CC/1/Rev.1), said he took it that the Conference wished to adopt the recommendation of the Committee contained in the annex to the report.
2. *It was so decided.*

Report of the Drafting Committee (CCW/CONF.IV/DC/1)

3. **Mr. Rosocha** (Slovakia), speaking in his capacity as Chairperson of the Drafting Committee, introduced its report, which was contained in document CCW/CONF.IV/DC/1.
4. **The President** said he took it that the Conference wished to adopt the report of the Drafting Committee, subject to minor editorial changes.
5. *It was so decided.*

Consideration and adoption of the final documents (CCW/CONF.IV/CRP.2; CCW/CONF.IV/L.1/Rev.2)

6. **The President** drew attention to the draft final document, Part I of which, containing the draft final report of the Conference, had been issued as document CCW/CONF.IV/CRP.2, and Part II, containing the draft final declaration, as document CCW/CONF.IV/L.1/Rev.2. He recalled that Part III of the final document would include the reports of the Credentials Committee, Drafting Committee and Main Committees. He invited the Conference to consider the draft final document section by section or, where necessary, paragraph by paragraph before adopting the text as a whole.

Part I

Paragraphs 1 to 17

7. *Paragraphs 1 to 17 were adopted.*

Paragraphs 18 to 23

8. *Paragraphs 18 to 23 were adopted, subject to minor editorial changes.*

Paragraphs 24 to 29

9. *Paragraphs 24 to 29 were adopted.*

Paragraphs 30 and 31

10. *Paragraphs 30 and 31 were adopted.*

Paragraph 32

11. **Mr. Romero Puentes** (Cuba), speaking on behalf of the Movement of Non-Aligned Countries, said that the Movement nominated Mr. Jesus Ricardo S. Domingo of the Philippines as Chairperson-designate of the Meeting of the High Contracting Parties to the Convention to be held in 2012.
12. **The President** said he took it that the Conference wished to accept the nomination and to amend the paragraph accordingly.
13. *It was so decided.*

14. *Paragraph 32, as orally amended, was adopted.*

Paragraph 33

15. *Paragraph 33 was adopted, subject to minor editorial changes.*

Annexes I and II

16. *Annexes I and II were adopted, subject to minor editorial changes.*

17. *Part I as a whole, as amended, was adopted.*

Part II

Section I

18. *Section I was adopted, subject to minor editorial changes.*

Section II

19. **The President** invited delegations to comment on the proposed decisions contained in section II, including decision 1 on the adoption of the draft protocol on cluster munitions, the text of which was contained in document CCW/CONF.IV/9/Rev.1.

Decision 1

20. **Mr. Spector** (United States of America) noted that many States had expressed concern that the draft protocol on cluster munitions could be interpreted as authorizing, implicitly or even explicitly, the use of such munitions, while others considered that the language of the preamble extended too far, at times in unprecedented ways. To address those concerns, his delegation wished to propose the following amendments to the draft protocol.

21. The sixth preambular paragraph should be amended to read “Determined to take action in implementing prohibitions or restrictions on cluster munitions which may have indiscriminate effects”, and the eighth and tenth preambular paragraphs should be deleted. In article 3, paragraph 2, the word “other” should be deleted, while article 3 bis should be deleted in its entirety. He further proposed deleting the word “use” in article 4, paragraph 1, and in article 5, paragraphs 1 and 3. In addition, paragraphs 4, 5 and 6 of article 5 should be deleted. In article 6, paragraphs 1 (a) and 1 (b), the words “as well as those no longer intended for use” should be deleted and, in paragraph 1 (a) of the same article, the words “for operational use” should be replaced with “in operational stocks”. Lastly, in article 13, paragraph 3, the words “in line with other relevant and applicable agreements” should be deleted.

22. His delegation hoped that the amendments put forward would enable the proposed protocol to work in harmony with the Convention on Cluster Munitions (Oslo Convention), with the protocol serving as a regulatory regime on issues other than the use of cluster munitions for States that were unable to accede to the Convention.

23. **Mr. Luque Márquez** (Ecuador) said that the objections raised by his Government and those of other High Contracting Parties to the draft protocol on cluster munitions had not been taken into account. All States represented at the Conference were key players, yet an unfortunate distinction had been made between States that were deemed to be so and those that were not, undermining the spirit of multilateral negotiations and the principle of States’ legal equality.

24. While the proposed amendments contained some modest concessions, the draft protocol was far from compatible with the Convention on Cluster Munitions, the standard to which all new instruments must be held. The draft protocol attempted to present the destruction of millions of obsolete cluster munitions scheduled for disposal as a virtue. However, it did not indicate how many millions more would be authorized for use if the text was adopted.

25. The blame for the future use of cluster munitions against civilians would not lie, as some delegations had suggested at the previous meeting, with States that could not support the draft protocol, some of which, as parties to the Oslo Convention, had already renounced the weapon. Consensus could not be achieved through minor editorial changes; the crux of the matter lay in the indiscriminate effects of cluster munitions and the victims they claimed, particularly children. The suffering caused by such weapons should have guided the drafting of the text. The use of cluster munitions would continue to outrage the conscience of people worldwide until there was a universal ban on them. There had never been a consensus on the text under consideration or the principles set forth therein, and the Conference should act accordingly on it.

26. **Mr. Guillermet-Fernández** (Costa Rica) proposed that the meeting should be suspended so that delegations that from the outset had had concerns about the draft protocol could discuss the last-minute amendments put forward.

27. **Mr. Woolcott** (Australia), noting that aspects of the proposed amendments had been highlighted by a number of delegations at the previous meeting, said that he wished to thank the United States delegation for its proposals, even if they had come at the eleventh hour, and that they deserved the Conference's consideration. He supported the request for a suspension.

28. **Mr. Spector** (United States of America) said that his delegation had certainly not intended to surprise anyone. The amendment proposals were designed to address the concerns voiced in recent days and could be considered during the proposed suspension.

The meeting was suspended at 5.25 p.m. and resumed at 6.15 p.m.

29. **Mr. Danon** (France) said that the question facing the Conference hinged on whether collective security, in both its humanitarian and military aspects, would be better guaranteed with or without a protocol on cluster munitions, or more specifically, whether the current draft protocol could work effectively in conjunction with the Oslo Convention.

30. The Oslo Convention, which France fully supported and to which it was a party, established a prohibition regime in respect of the arms that fell within its scope. Since the major users and producers of cluster munitions had declared that they would not accede to the Convention in the near future, its political force lay in its stigmatizing effect.

31. The proposed protocol on cluster munitions had two aims. First, it sought to impose a partial prohibition on cluster munitions manufactured before 1980. The date was not arbitrary but an expression of intent to eliminate first-generation arms, or specifically, those arms that could not self-destruct or self-neutralize. If adopted, the protocol would have an impact four to five times greater on stocks of cluster munitions than the Oslo Convention alone. The second aim of the protocol was to regulate cluster munitions. Opponents argued that it would thereby legitimize those arms and undermine the stigmatizing effect of the Oslo Convention. It was erroneous, however, to assume that all regulatory systems implied a certain degree of legitimization: for example, setting a ceiling of 20 per cent for certain gas emissions in no way legitimized pollution up to that level. The belief that the Oslo Convention was so vulnerable that the adoption of a protocol to the Convention on Certain Conventional Weapons could weaken it implied little faith in its legal and political value.

32. The amended text proposed by the United States would institute a different regime from that initially envisaged in the draft protocol. Some delegations had requested that conditions of use in respect of cluster munitions should not be mentioned explicitly in the text. The new language incorporated that change, reflecting a genuine, and very important, concession.

33. **Mr. Guillermet-Fernández** (Costa Rica), speaking also on behalf of Afghanistan, Angola, Austria, the Plurinational State of Bolivia, Burkina Faso, Chile, Colombia, the Congo, the Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, El Salvador, Ghana, Guatemala, Guinea, Guinea-Bissau, Haiti, the Holy See, Honduras, Iceland, the Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Liechtenstein, Madagascar, Mali, Mexico, Mozambique, Namibia, Nicaragua, the Niger, Nigeria, Norway, Panama, Paraguay, Senegal, Slovenia, South Africa, Spain, the Sudan, Togo, Tunisia, Uganda, Uruguay, the Bolivarian Republic of Venezuela, Zambia and Zimbabwe, expressed regret that amendments to the draft protocol on cluster munitions had been proposed only hours before the end of the Conference. The new text did not fully address fundamental concerns raised repeatedly by the delegations for which he spoke. It offered no added humanitarian value, since it would permit the continued production of cluster munitions known to cause unacceptable harm and would not prohibit or regulate any form of use of such weapons. It must therefore be concluded that the text did not command a consensus.

34. **The President**, recalling that the draft protocol represented five years of intensive efforts and negotiations by the High Contracting Parties, asked whether any Party opposed its adoption with the amendments proposed by the United States.

35. **Mr. Flores-Bermúdez** (Honduras) said that he was surprised by the President's question, since a few moments earlier the representative of Costa Rica had spoken on behalf of Honduras and 49 other countries opposed to the adoption of the draft protocol. If their position had not been made sufficiently clear, the statement should perhaps be repeated.

36. **Mr. Kongstad** (Norway), **Mr. Winter Kabran** (Uruguay), **Mr. Kmentt** (Austria) and **Mr. Luque Márquez** (Ecuador) affirmed their delegations' full support for the Costa Rican statement, which had made it clear that there was no consensus on the draft protocol.

37. **Mr. Gómez Camacho** (Mexico), supported by **Mr. Flores-Bermúdez** (Honduras), proposed that, rather than ask all 50 countries for which the representative of Costa Rica had spoken to confirm their position, the President should declare that there was no consensus.

38. **Mr. Wesseh** (Liberia) said it was regrettable that two weeks of work had not led to a consensus, which, in his understanding, meant a view held by the vast majority of delegations.

39. **Mr. Fasel** (Switzerland) said that his delegation believed it necessary to supplement the Convention on Cluster Munitions and thus increase the number of cluster munitions to be prohibited, neutralized and destroyed. It therefore regretted that the Parties had been unable to bridge the differences that had existed from the outset of the negotiations. Switzerland could not support the adoption of the draft protocol, since, despite his delegation's constructive proposals to strengthen the protection of civilians, the text remained too weak in various aspects. The positive impact on the most dangerous arsenals that could result from adopting the draft protocol did not outweigh his country's concerns about the weakness of its humanitarian provisions and the potential negative effect on international humanitarian law.

40. In the future, discussions under the Convention on Certain Conventional Weapons should be refocused on areas where genuine progress in reconciling humanitarian and

military considerations would be forthcoming. States unlikely to accede to the Oslo Convention in the foreseeable future should take measures at the national level to address the humanitarian concerns caused by cluster munitions.

41. **Mr. Roux** (Belgium) said that his Government still considered the Oslo Convention to be the benchmark for international humanitarian law in the area of cluster munitions. He invited all States that were in a position to accede to that Convention to do so as soon as possible.

42. **Mr. Lusiński** (Poland) said that, although a disarmament and non-proliferation conference had once again failed to achieve positive results, the painstaking effort to ban a large number of cluster munitions through action, rather than wishful thinking, was significant. In his opinion, a protocol on cluster munitions would have ushered in genuine changes on the ground, but the insistent call to boycott the negotiations and the obstructionism of 50 States — not in fact a majority — did not bode well for international security policy.

43. **Ms. Askgaard** (Denmark) said that the Convention on Cluster Munitions was currently the appropriate standard for addressing the humanitarian impact of the use of cluster munitions. Nevertheless, the failure of efforts to produce a relevant instrument under the Convention on Certain Conventional Weapons, on the grounds that the provisions of the Oslo Convention must not be jeopardized, would be in no one's interests. There would be value in continuing the work to conclude such an instrument, which would constitute a further step towards a world free of cluster munitions. The immediate focus, however, must be on steps to tackle the humanitarian concerns raised by those weapons.

44. **Ms. Jordán** (Cuba) said that the Convention on Certain Conventional Weapons provided the appropriate framework for negotiations on cluster munitions as it brought together producers, users and the main interested parties. Cuba had been an active participant from the outset of negotiations on the draft protocol. Notwithstanding the efforts made over the previous four years, the text under consideration and the proposed amendments thereto had failed to gain the consensus required under the rules of procedure for negotiations to continue.

45. **Ms. Golberg** (Canada) said that addressing the humanitarian destruction wrought by cluster munitions, including through the adoption of a relevant protocol to the Convention, had long been a priority for Canada, which valued the unique, important and potentially potent forum that the Convention provided. Her delegation was therefore disappointed that the efforts made had culminated in a draft protocol unable to command a consensus because of fundamental differences among delegations about the humanitarian value of the text.

46. She hoped that the urgent humanitarian spirit and purpose that had driven those efforts would nonetheless inform the actions and attitudes of all States that used, produced, acquired, stockpiled or retained cluster munitions. Those States should take additional responsible action to minimize human suffering caused by cluster munitions and move towards the adoption of more stringent international humanitarian norms of the kind contained in the Convention on Cluster Munitions.

47. **Ms. Liufalani** (New Zealand) said that the Convention on Certain Conventional Weapons was a cornerstone of international humanitarian law, providing a framework for the development of legally binding instruments to address the devastating humanitarian impact of weapons found to be excessively injurious or to have indiscriminate effects. Her delegation had been willing to work hard and constructively at the Conference to reach agreement on an appropriate response under the Convention to alleviate the human suffering caused by cluster munitions. Regrettably, humanitarian concerns central to the Convention had not been adequately reflected during the negotiations, and the resulting

draft protocol would permit the ongoing use of certain cluster munitions known to cause great suffering among civilians. She therefore understood why some delegations had felt compelled to express their opposition to the adoption of the text, on which there was clearly no consensus.

48. **Mr. Ghariani** (Tunisia) said that he had hoped to leave the Conference proud to have witnessed the adoption of a new legally binding instrument that complemented the Convention on Cluster Munitions. It was clear, however, that the draft protocol in its current form could not command a consensus.

49. **Mr. Wesseh** (Liberia) said the consensus emerging from the discussions was that the draft protocol as it stood would not further the cause for which delegations were assembled. The fact was that cluster munitions killed indiscriminately and, for that reason, their use would always be in violation of international humanitarian law and indeed of human conscience.

50. **Mr. Endoni** (Observer for Nigeria) said that the President's question could, in a less enlightened environment, be taken to imply that any country willing to oppose the United States should stand up. At stake, however, was not opposition to a State but a matter of principle. While appreciating the submission by the United States, his delegation could not support the text, since it did not adequately reflect the humanitarian concerns associated with cluster munitions.

51. **The President** suggested that, in the light of the failure of the Conference to reach a consensus on the draft protocol on cluster munitions, decision 1 should be deleted from the final document; the remaining decisions and the annexes would be renumbered accordingly.

52. *It was so decided.*

Decisions 2 to 6

53. *Decisions 2 to 6 and the related annexes were adopted, subject to minor editorial changes.*

54. *Section II, as amended, was adopted.*

Section III

55. *Section III was adopted.*

56. *Part II as a whole, as amended, was adopted.*

57. *The draft final document of the Fourth Review Conference of the High Contracting Parties to the Convention on Certain Conventional Weapons as a whole, as amended, was adopted.*

Closing statements of delegations

58. **Mr. Kimpton** (Australia) said that, while his delegation remained a strong supporter of the Convention on Cluster Munitions, it had always believed that negotiations on a protocol on cluster munitions to the Convention on Certain Conventional Weapons had the potential to build useful minimum standards applicable to the States that possessed those weapons. It also believed that the two instruments could have coexisted and complemented one another, as more States gradually recognized the inherent dangers of cluster munitions and became parties to the Oslo Convention.

59. The proposed protocol could have ensured the prohibition and destruction of many millions of cluster munitions. It would have placed new, modern requirements on the High

Contracting Parties to the Convention on Certain Conventional Weapons in areas such as clearance, victim assistance, international cooperation and assistance, and transparency. Moreover, it would have reinforced and built on existing obligations under the Protocol on Explosive Remnants of War (Protocol V), by reducing the risk of accidents involving cluster munition remnants and returning land to affected communities for productive use.

60. The text of the draft protocol had evolved significantly since its early drafts, so as to take account of the interests of all sides. Its potential humanitarian impact had been strengthened as a result of the hard work of several delegations that had maintained a strong and principled position in that regard. His delegation wished to thank all those who had engaged constructively in efforts to find a solution that was acceptable to all, in particular the Chairperson of the Group of Governmental Experts and the Chairperson of Main Committee II. Although it was disappointing that no mutually satisfactory outcome had been agreed, Australia remained firmly committed to the Convention and would continue to work with other States in achieving its objectives.

61. **Ms. Fogante** (Argentina) said that her delegation regretted the failure of the Conference to adopt a protocol on cluster munitions, a development that could have profound implications for the future of the Convention and the multilateral disarmament system as a whole. Since the beginning of negotiations on the draft protocol, it had advocated the adoption of an instrument that would have a genuine impact on existing global stockpiles of cluster munitions and had advised against relegating such an important humanitarian issue to the level of national policy implementation, which could vary from one country to the next. The establishment of new international standards and the reinforcement of existing ones was the only way to guarantee the effective implementation of measures aimed at regulating and destroying weapons with grave humanitarian consequences.

62. Argentina's position was that, despite the broad variety of national and regional security concerns of the High Contracting Parties, the proposed protocol would have been capable of setting standards of international humanitarian law without stipulating a total ban on cluster munitions. It would have provided, *inter alia*, for an immediate prohibition on certain types of cluster munition, imposed requirements relating to victim assistance, transparency and compliance, and allowed for a periodic review of the prohibitions and restrictions it established, thereby maintaining the flexibility inherent in the Convention. Although those provisions were not perfect, her delegation believed that they would have served to institute a regime with the potential to produce real results on the ground.

63. Her delegation had always argued in favour of the complementarity of the negotiation processes conducted within the framework of the Convention and outside the United Nations system. Although it had participated in the Oslo process, Argentina was currently neither a State party nor a signatory to the Convention on Cluster Munitions. Given that, in 2009, a representative of Argentina had been Chairperson of the Group of Governmental Experts, her delegation had seen first-hand the distinct evolution in the positions of the Parties over the past two years regarding the proposed protocol. That evolution was evidence of a flexibility on the part of delegations that had lamentably not been the prevailing attitude of the Parties at the current meeting. Her delegation hoped that renewed negotiations in the near future could help to make up the lost ground.

64. **Ms. Nordberg** (Finland) said it was regrettable that, after four years of hard work, the Conference had not been able to reach a consensus on the draft protocol. An agreement on an internationally binding instrument on cluster munitions to which all major users and producers were committed would have constituted an important development. Such an instrument would have had a definite humanitarian impact and would have resulted in the destruction of millions of cluster munitions. It was lamentable that there had been insufficient political will to give priority to humanitarian issues.

65. **Ms. Mehta** (India) said that a protocol on cluster munitions would have strengthened the Convention on Certain Conventional Weapons and underscored its flexible nature. Her delegation had worked constructively in partnership with other States throughout the negotiations and had tried to reach out to delegations with perspectives that differed from its own. For that reason, it had been ready to join a consensus on the draft protocol, despite finding it less than satisfactory. The proposed instrument would have addressed the humanitarian concerns raised by cluster munitions and would have had a real impact on States that produced and stockpiled more than 85 per cent of the world's cluster munitions and for which such weapons remained part of operational military plans. It would also have left open the possibility of more comprehensive prohibitions or restrictions on cluster munitions in the future.

66. India's position continued to be that the use of cluster munitions was lawful and legitimate if such use took account of existing international humanitarian law. There was, however, a lack of common international standards on cluster munitions, and the adoption of a protocol to the Convention would have addressed that lacuna. While regretting the outcome of the negotiations, India nevertheless remained committed to the Convention process and would continue to work with other High Contracting Parties on implementing the Convention and realizing its intrinsic potential.

67. **Ms. Rahamimoff-Honig** (Israel) said that her delegation wished to express its disappointment at the inability of the Conference to rally around the draft protocol on cluster munitions, which, if adopted, would have brought considerable humanitarian gains. It would have required States that viewed cluster munitions as legitimate weapons and did not support the goals of the Convention on Cluster Munitions to undertake substantive and costly obligations to modernize their stockpiles and use only those cluster munitions that resulted in lower unexploded ordnance rates, thus posing less humanitarian risk. Such benefits had been relinquished by States that claimed to be the most ardent supporters of the humanitarian cause.

68. Among the reasons for the failure to reach agreement on a protocol were claims that only military and industrial considerations had been taken on board and that the voices of victims and of civil society had not been heard. A reading of the proposed text revealed that such claims were unsubstantiated. On the contrary, by requiring cluster munitions to incorporate safeguards, prohibiting the use of cluster munitions produced prior to 1980 and stipulating changes in design, procurement and production aimed at minimizing the unexploded ordnance rate, the protocol would have had significant humanitarian benefits. Those provisions would have been complemented, *inter alia*, by obligations relating to marking, clearance and destruction, and victim assistance.

69. The coalition that wished to block the process had included States that were not party to the Convention on Certain Conventional Weapons, Parties that had not participated in previous meetings related to the Convention and Parties that had not participated in a single meeting of the Group of Governmental Experts. It also included States that had participated in the Conference through the Sponsorship Programme in order better to acquaint themselves with the Convention process. They had been drawn into the coalition so as to bolster the position of a few States that had been adamant in their desire not to see any positive outcome following the four years of negotiations. Despite claims to the contrary, those States had not participated sincerely and candidly in the work undertaken. Moreover, they had played only a minor role in the negotiations on the Convention on Cluster Munitions. Since then, they had made every effort to ensure that no other agreement was reached. Even their so-called alternative text had not been introduced in a timely manner, and its purpose had not been to advance the negotiations.

70. One of the most puzzling arguments put forward by opponents of the draft protocol was their portrayal of the ban imposed by the Convention on Cluster Munitions as the

higher standard and of the proposed instrument as a step backwards. Nothing could be further from the truth. For States not party to the Convention on Cluster Munitions, there were, and would be, no restrictions or prohibitions on the use of cluster munitions other than the general rules and principles of international humanitarian law as applicable to them. The Convention on Cluster Munitions could hardly be regarded as an instrument of international humanitarian law or serve as a basis for the establishment of a customary norm on cluster munitions. Israel, like several other key States, rejected the normative framework of the Oslo Convention and objected to its application. It respected the right of other States to undertake legally binding obligations; they should not, however, seek to extend those obligations to others.

71. For its part, Israel remained a staunch supporter of the Convention on Certain Conventional Weapons and a true believer in its ability to promote the progressive development of the rules of international law that applied to armed conflict and, in particular, to the use of cluster munitions. Israel had played an active and constructive role throughout the negotiations on the draft protocol and stood willing to help rectify the grievous error the Parties were making by failing to adopt a robust regulatory framework on the use, stockpiling, retention, production and development of cluster munitions. She could not help but wonder whether all Parties were equally committed to the objectives of the Convention process.

72. **Mr. Maimeskul** (Ukraine) expressed regret that the international community had failed to take the decisive last step that would have allowed it to capitalize on the negotiations on a cluster munitions protocol to the Convention. During the Conference, significant improvements to the draft protocol and concessions on all sides had been made in order to reach a compromise that would produce tangible humanitarian effects and strengthen the Convention regime. Those efforts had turned out to be in vain, given the lack of a consensus.

73. Ukraine had fully supported efforts to address the issue of cluster munitions within the framework of international humanitarian law by focusing on the common goal of protecting civilians from the indiscriminate effects of such weapons. It had been ready to undertake the obligations contained in the draft protocol, despite the difficulty and costliness of compliance. The immediate impact of the protocol on Ukraine, which had inherited its cluster munition burden from the former Soviet Union, would have been to prohibit more than 60 per cent of its existing 700,000 tons of cluster munitions and to require the clearance of more than 200,000 hectares of former Soviet military training grounds that had been polluted with cluster munition remnants.

74. **Ms. Luts** (Estonia) said her delegation regretted that the Conference had failed to adopt the draft protocol on cluster munitions. It believed that a protocol would have had immediate and extensive humanitarian effects by imposing prohibitions and restrictions on States that produced and stockpiled the overwhelming majority of the world's cluster munitions. The text before the Conference had struck a delicate balance between making a difference on the ground, on the one hand, and respecting the sensitivities of major users and producers and addressing the concerns of States parties to the Convention on Cluster Munitions with regard to the compatibility of the two instruments, on the other. Her delegation had adopted a constructive attitude throughout the negotiation process but did not believe that there had been a genuine desire by all High Contracting Parties to the Convention on Certain Conventional Weapons to adopt a protocol. The failure to do so was a missed opportunity and a waste of four years of hard work and difficult compromises. Her delegation nevertheless stood ready to contribute to efforts aimed at the adoption of a protocol on cluster munitions in the future.

75. **Ms. Bleoancă** (Romania) said her delegation was disappointed that the Parties had not managed to take advantage of the momentum generated during the negotiations in order

to conclude a new protocol to the Convention. It strongly believed that such an instrument would have had considerable political value by virtue of its adoption within the framework of the United Nations and would have entailed significant humanitarian gains.

76. **Mr. Danon** (France) said that, while the Conference had been faced with a very difficult task, its failure to adopt the draft protocol called into question its ability, at least in respect of cluster munitions, to codify law at all.

77. France had always been keen to take an active part in the work of the Conference and supported all efforts aimed at minimizing the humanitarian impact of existing stockpiles of cluster munitions. For that reason, notwithstanding the outcome of the current meeting, his delegation would continue to participate fully in the activities undertaken within the framework of the Convention and hoped that in the future they would produce more tangible results.

78. It was clear that, in the years to come, the only international standards addressing the issue of cluster munitions would be those contained in the Oslo Convention; that did not pose a major problem for France, which was fully committed to meeting the objectives of that instrument. Whether those standards represented customary norms was, however, another matter. It would be many years before that question could be answered, and the response would ultimately depend on the extent of the Convention's application.

79. The decisions made at the current meeting amounted to a gamble by the Parties to the Convention on Certain Conventional Weapons that the Convention on Cluster Munitions would be sufficient to restrain as much as possible or prevent altogether the use of those weapons throughout the world. Certain States parties to the latter instrument, including France, had taken the position from the beginning that, given the attitude of major producers and users, the Oslo Convention alone would regrettably be insufficient. Only time could tell whether the use of cluster munitions would cease as a result of the international opprobrium and stigmatization generated by that Convention. Like other participants, he would bow to the wisdom of the international community, hoping that it had made the correct decision in choosing not to conclude a complementary instrument and that its decision would result in the total elimination of cluster munitions from the face of the earth.

Closure of the Conference

80. **The President** said that the main objective of the Conference — to enable the High Contracting Parties to explore ways of addressing the humanitarian impact of cluster munitions — had been met. In his view, multilateralism was not always about producing new outcomes but was sometimes simply a matter of understanding where the red lines in negotiations lay and why they existed. At the same time, participants should remember that the Convention on Certain Conventional Weapons represented far more than the instruments adopted within its framework. Indeed, the Convention and its Protocols had withstood the test of time and remained cornerstones of international humanitarian law. During the Conference, the Parties had further strengthened the regime established by the Convention by expressing their enduring commitment to the principles and objectives of international humanitarian law, agreeing on actions to advance universalization, introducing measures to enhance the effectiveness of the compliance mechanism and responding to the call of the Secretary-General of the United Nations to examine international humanitarian law with regard to mines other than anti-personnel mines.

81. After the customary exchange of courtesies, he declared the Fourth Review Conference of the High Contracting Parties to the Convention on Certain Conventional Weapons closed.

The meeting rose at 7.40 p.m.