

**Fifth 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**

10 October 2016

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**Geneva, 12–16 November 2016**  
Item 4 of the provisional agenda  
**Consideration of the final documents**

**Draft final declaration**

**Submitted by the Chairperson-designate of Main Committee I**

*The High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, which met in Geneva from 12 to 16 December 2016, to review the scope and operation of the Convention and the Protocols annexed thereto and to consider any proposal for amendments of the Convention or of the existing Protocols, as well as proposals for additional protocols relating to other categories of conventional weapons not covered by the existing annexed Protocols,*

*Recalling* the Declarations adopted by the First Review Conference in 1996, the Second Review Conference in 2001, the Third Review Conference in 2006, and the Fourth Review Conference in 2011,

*Reaffirming* their conviction that the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects is a major instrument of international humanitarian law, which contributes to both preventing and reducing the suffering of civilians and combatants,

*Recognising* that most major armed conflicts are non-international in character, and that such conflicts have been brought within the scope of the Convention and its annexed Protocols by the amendment of Article 1 of the Convention,

*Emphasizing* their determination to promote the universality of the Convention and its annexed Protocols with the goal of achieving global adherence and the importance of all States that have not yet done so to become parties to the Convention and its Protocols without delay,

*Emphasizing* also the importance of the comprehensive implementation of the Convention and its annexed Protocols including through the dissemination of information to armed forces and the civilian population, the adoption of appropriate technical measures

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and legislative provisions concerning both the type and use of weapons, and measures, including legal measures where appropriate for the prevention, enforcement, investigation and suppression of breaches of the regime,

*Recognizing* the important role international cooperation and assistance can play in the implementation of the Convention and its annexed Protocols,

*Acknowledging* the key role of the Convention in monitoring ongoing and new developments in weapons, means and methods of war that may be deemed to be excessively injurious or to have indiscriminate effects or have serious ramifications for the principles and rules of international humanitarian law,

*Acknowledging* the importance of monitoring and assessing the developments in the field of science and technology relevant to the Convention and anticipating challenges arising thereof with a view to ensuring the continued relevance, integrity and adequacy of the Convention,

*Recognising* also the crucial role of the International Committee of the Red Cross and encouraging it to continue to work to facilitate further ratifications and accessions to the Convention and its annexed Protocols, to disseminate their contents and to lend its expertise to future Conferences and other meetings related to the Convention and its annexed Protocols,

*Acknowledging* the invaluable humanitarian efforts of international, regional and non-governmental organisations in mitigating the humanitarian impact of armed conflicts,

*Recalling* the obligation of all parties to a conflict to take all feasible precautions in the use of mines other than anti-personnel mines with a view to avoiding incidental loss of civilian life, injury to civilians and damage to civilian objects,

*Reaffirming* their strong determination to protect civilians from the deleterious humanitarian impact of cluster munitions,

*Deeply concerned* at the humanitarian and development problems caused by the presence of explosive remnants of war, which constitute a danger to the civilian population as well as an obstacle to reconstruction, restoration of normal social conditions and economic development and in this context reaffirming the need to further develop international cooperation and assistance with this respect,

*Acknowledging* the foreseeable effects of explosive remnants of war and explosive weapons on civilian populations as a factor to be considered in applying the international humanitarian law rules of precautions, distinction and proportionality,

*Deeply concerned* at the indiscriminate use and effects of improvised explosive devices (IEDs) and at the increasing global impact of IED attacks worldwide, in particular through the perpetration of terrorist acts,

## I.

### **Solemnly declare:**

1. Their commitment to respect and comply fully, in accordance with the norms and principles of international law, with the objectives and provisions of the Convention and its annexed Protocols to which they are party as authoritative international instruments governing the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects,

2. Their acknowledgement that all parties to a conflict have an obligation to comply with international humanitarian law during an armed conflict and for High Contracting Parties to apply, *inter alia*, the prohibitions and restrictions of the Convention and its annexed Protocols,
3. Their desire that all States respect and ensure respect for the revised scope of application of the Convention to the fullest extent possible, and their determination to encourage all States which have not yet done so to ratify, accept, approve or accede to, as appropriate, the amendment to Article 1 without delay,
4. Their determination to encourage all States to become parties, as soon as possible, to the Protocol on Non-Detectable Fragments (Protocol I), the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Amended Protocol II), the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III), the Protocol on Blinding Laser Weapons (Protocol IV), and the Protocol on Explosive Remnants of War (Protocol V), and to encourage all States to respect and ensure respect for the substantive provisions of these Protocols,
5. Their commitment to implement fully the Convention and its annexed Protocols to which they are party, and to keep the provisions of the Convention and its annexed Protocols under review in order to ensure their provisions remain relevant to modern conflicts,
6. Their determination to consult and cooperate with each other in order to facilitate the full implementation of the obligations contained in the Convention and its annexed Protocols to which they are party, thereby promoting compliance,
7. Their commitment to the full implementation of, and compliance with, the Convention and its annexed Protocols, and in this respect, to fulfil their legal, technical and reporting obligations,
8. Their commitment to continue to contribute to the further development of international humanitarian law and in this context to keep under review the development of new weapons and uses of weapons, which may have indiscriminate effect or cause unnecessary suffering,
9. [Lethal autonomous weapons systems]
10. [Mines other than anti-personnel mines (MOTAPM)]
11. [Any other issues]
12. Their determination to urge and support States which do not already do so to conduct reviews to determine whether any new weapon, means or methods of warfare would be prohibited under international humanitarian law or other rules of international law applicable to them,
13. Their continuing commitment to assist, to the extent feasible, humanitarian demining missions, operating with the consent of the host State and/or the relevant High Contracting Parties to the conflict, in particular by providing all necessary information in their possession covering the location of all known minefields, mined areas, mines, explosive remnants of war, booby-traps and other devices in the area in which the mission is performing its functions,
14. Their acknowledgement of the invaluable contributions that High Contracting Parties to Protocol V make to providing care and rehabilitation and social and economic reintegration of victims of explosive remnants of war and their encouragement of such High Contracting Parties to continue such assistance to the extent possible and their acknowledgement of the complementarity of these efforts with efforts in the area of victim

assistance under other related conventions, including the Anti-Personnel Landmine Convention and the Convention on Cluster Munitions,

15. Their acknowledgement of the important work done in the framework of the Amended Protocol II Group of Experts on IEDs, especially through the voluntary exchange of information, which contributed to raising awareness of the magnitude of the threat posed by IEDs, and their commitment to continue to address the problem of IEDs in the context of Amended Protocol II,

16. Their acknowledgement of the invaluable contribution of the Sponsorship Programme to promote the universalization and implementation of the Convention and its annexed Protocols, and express their appreciation for the administrative support provided by the Geneva International Centre for Humanitarian Demining to the Programme,

## II.

**With the aim of continuing to advance the Convention and its Protocols over the next review cycle, the Conference agrees the following actions:**

### Universalization

17. The officeholders of the CCW, Protocol V and Amended Protocol II are to *promote* universalization of the Convention and its Protocols, and specifically to *address* States not party, coordinate their activities giving consideration, *inter alia*, to the elaboration of an action plan and, under the Standing Agenda Item on Universalization of the annual Meeting of High Contracting Parties, to *report* on their efforts and the progress made in this area.

18. High Contracting Parties under the Standing Agenda Item on Universalization are to *report* on their initiatives to promote universalization of the Convention and its Protocols and to *consider* adhering to the Protocols to which they are not yet a party and report on the steps taken to do so.

19. High Contracting Parties which have not yet done so are to *consider* adhering to the 2001 amendments to Article 1, which extends Protocols I, II, III and IV to non-international armed conflicts.

20. High Contracting Parties which are only party to Protocol II are to *consider* adhering to Amended Protocol II.

21. The Implementation Support Unit is to *provide* the necessary administrative and substantive support to the officeholders and High Contracting Parties in their efforts to promote universalization, gather information on States not yet party and work towards the objective of universal adherence to the Convention and its Protocols.

### Strengthening national implementation and compliance

22. High Contracting Parties *reaffirm* their commitment to the compliance mechanism for the Convention and its annexed Protocols as agreed at the Third Review Conference and the Meeting of High Contracting Parties to the Convention in 2007.

23. High Contracting Parties are *called on* to submit compliance reports. The Chairperson of the annual Meetings of High Contracting Parties to the Convention is *tasked* with encouraging higher rates of compliance reporting and is required to *report* on his or her efforts in fulfilment of this task under the Standing Agenda Item on Compliance of the annual Meeting of High Contracting Parties.

24. High Contracting Parties are to *reinforce* their efforts to disseminate information on the Convention and its Protocols to their armed forces and civilian population.

25. High Contracting Parties are to *consider* and *share* their experiences on providing assistance and cooperation for the implementation of the Protocols.

#### **Sponsorship Programme**

26. High Contracting Parties in a position to do so are encouraged to *contribute* to the Sponsorship Programme. The Steering Committee of the Sponsorship Programme is to continue to *report* on its activities and finances each year to the Meeting of High Contracting Parties.

#### **Implementation Support Unit**

27. The Implementation Support Unit is to *work* effectively and efficiently and in its annual report to the Meeting of High Contracting Parties to continue to report on the estimated costs versus the actual costs of the meetings and conferences of the preceding year.

28. In order to further promote financial transparency and accountability and taking into account the practice of multilateral and other organizations, *requests* the Implementation Support Unit to provide regular updates on the status of States' financial contributions to the CCW and its Protocols and to submit a financial report on these matters to the annual Meeting of High Contracting Parties to be circulated as an official document.

29. The Chairperson of the Meeting of High Contracting Parties is to report each year on the implementation of the above actions.

### **III.**

#### **The Conference takes the following decisions:**

[Lethal Autonomous Weapons]

[...]

[...]

### **IV.**

#### **Review:**

##### *The Conference*

30. *Reaffirms* that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited, and *recalls* the obligation to determine, in the study, development, acquisition or adoption of a new weapon, means and method of warfare, whether its employment would, in some or all circumstances, be prohibited under any rule of international law applicable to the High Contracting Parties.

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

32. *Underlines* the need to achieve universal adherence to the Convention and its annexed Protocols.

33. *Welcomes* recent ratifications and accessions to the Convention and its annexed Protocols and *urges* the High Contracting Parties to accord high priority to their diplomatic efforts to encourage further adherence with a view to achieving universal adherence as soon as possible.

#### **Article 1**

34. *Notes* the provisions of Article 1, as amended on 21 December 2001.

35. *Calls upon* States which have not yet done so to ratify, accept, approve or accede to, as appropriate, the amendment to Article 1.

#### **Article 2**

36. *Reaffirms* that nothing in the Convention or its annexed Protocols shall be interpreted as detracting from other obligations imposed upon the High Contracting Parties by international humanitarian law.

#### **Article 3**

37. *Notes* the provisions of Article 3.

#### **Article 4**

38. *Acknowledges* that 123 States have ratified, accepted, acceded or succeeded to the Convention.

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

#### **Article 5**

40. *Notes* the provisions of Article 5.

41. *Recalls* in particular the provisions of paragraph 3 of this Article, which stipulates that each of the Protocols annexed to the Convention shall enter into force six months after the date by which twenty States have notified their consent to be bound by it.

#### **Article 6**

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

43. *Welcomes* the work of the Sponsorship Programme to promote awareness and understanding of the Convention and its annexed Protocols.

44. *Also welcomes* the ongoing work of the Implementation Support Unit to produce promotional materials on the CCW and its Protocols and to maintain and update the CCW website.

#### **Article 7**

45. *Notes* the provisions of Article 7.

46. On compliance, the Conference *welcomes* the agreement on actions to reinforce implementation of the compliance mechanism of the Convention and its annexed Protocols.

#### **Article 8**

47. *Notes* the provisions of Article 8.

48. *Agrees* to convene [To be completed].

49. *Recalls* their agreement reached at all four previous Review Conference that such conferences should continue to be held on a regular basis.

#### **Article 9**

50. *Notes* with satisfaction that the provisions of this Article have not been invoked.

#### **Article 10**

51. *Notes* the provisions of Article 10.

#### **Article 11**

52. *Notes* the provisions of Article 11.

#### **Protocol on Non-Detectable Fragments (Protocol I)**

53. *Notes* the provisions of this Protocol.

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

54. *Notes* the provisions of this Protocol.

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

55. *Notes* the provisions of this Protocol.

56. *Reaffirms* the commitment of the High Contracting Parties to take the necessary measures under this Protocol and to ensure the full and effective national implementation of the obligations under this Protocol.

57. *Welcomes* the efforts of the High Contracting Parties to Amended Protocol II to reduce the indiscriminate effects of the use of mines, booby-traps and other devices and to ensure that any such weapons designed or of a nature to cause superfluous injuries or unnecessary suffering is never used.

58. *Welcomes* the decision by the Tenth Annual Conference of the High Contracting Parties to Amended Protocol II in 2008, in the framework of revitalizing the work under Amended Protocol II and to further enhance its implementation, to establish an informal open-ended Group of Experts.

59. *Notes* with satisfaction that annual meetings of the Group of Experts of the High Contracting Parties to Amended Protocol II have been held since 2009 to review the operation and status of the Protocol, consider matters arising from reports by High Contracting Parties according to Article 13, paragraph 4 of Amended Protocol II and the development of technologies to protect civilians against indiscriminate effects of mines, as well as the issue of Improvised Explosive Devices (IEDs).

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

61. *Notes* with satisfaction the continued substantive discussions on IEDs which provided the Group of Experts of the High Contracting Parties to Amended Protocol II the opportunity to engage actively in a topic relevant to the provisions of Amended Protocol II and their implementation. It has been the focus of the High Contracting Parties since 2009 to share experience on the scale of the humanitarian problem posed by IEDs and to consider efforts to defeat and prevent the unlawful use of IEDs at the national, regional and international levels through:

(a) Maintaining a compilation of existing technical guidelines, best practices, and other recommendations aiming at addressing the diversion or illicit use of materials which can be used for IEDs;

(b) Exchanging information on technical developments relevant to mitigating the threat posed by IEDs and the impact on civilians; and on risk awareness/public education campaigns;

(c) Exchanging information on IED incidents, and exploring solutions for automated information exchange, such as databases, portals or platforms;

(d) Keeping all High Contracting Parties apprised of all IED-relevant developments in other fora, so as to enable unity of actions;

(e) Agreeing on a one-time, voluntary questionnaire with a view to enhancing international cooperation and assistance and strengthening national capacities of the High Contracting Parties in mitigating the problem of IED, including through the establishment of a network of national points of contact.

62. *Welcomes* the Declaration on Improvised Explosive Devices adopted by the Eighteenth Annual Conference of the High Contracting Parties to Amended Protocol II.

63. *Notes* with satisfaction the decision by the High Contracting Parties to Amended Protocol II to analyse the different reporting forms each year to improve the quality of reporting and of the information contained in the forms submitted.



64. *Also takes note* of the decision by the Twelfth Annual Conference of the High Contracting Parties to Amended Protocol II in 2010 to synchronize the submission of the national annual reports with the submission of national reports under Protocol V to the Convention. The submission date for both reports was set at 31<sup>st</sup> March of every year to allow for their consideration by the Group of Experts.

65. *Notes* with satisfaction that, in accordance with Article 13 of Amended Protocol II, eighteen Annual Conferences of the High Contracting Parties have been held for the purpose of consultations and cooperation on all issues related to Amended Protocol II.

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

67. *Acknowledges* the valuable work of relevant agencies and bodies of the United Nations; the International Committee of the Red Cross pursuant to its mandate to assist war victims; the Geneva International Centre for Humanitarian Demining; international and regional governmental organizations, as well as of non-governmental organizations in a number of fields relevant to Amended Protocol II, in particular the care and rehabilitation of mine victims, the implementation of mine-awareness programmes and mine clearance.

68. *Recommends* that future Annual Conferences of the High Contracting Parties to Amended Protocol II be held back-to-back with Meetings of the High Contracting Parties to the Convention and the Conferences of the High Contracting Parties to Protocol V.

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

69. *Notes* the provisions of this Protocol and calls for their full implementation by all High Contracting Parties to the Protocol.

70. *Notes* the concerns raised by a number of High Contracting Parties over the recent growing number of reports of use of incendiary weapons against civilians.

71. *Calls* on all parties to armed conflicts to respect relevant rules of international humanitarian law, including provisions of Protocol III where applicable.

#### **Protocol on Blinding Laser Weapons (Protocol IV)**

72. *Notes* the provisions of this Protocol and welcomes that there has been no confirmed use of blinding laser weapons. It also *reminds* High Contracting Parties of the need to take all feasible precautions, in the use of laser systems, to avoid incidence of permanent blindness to unenhanced vision, as required by Article 2.

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

73. *Notes* the provisions of this Protocol.

74. *Welcomes* the efforts of the High Contracting Parties to Protocol V to address the deleterious humanitarian effects of explosive remnants of war.

75. *Appreciates* the fact that since the Fourth Review Conference 15 new High Contracting Parties joined the Protocol which brings the total number to 91 and reiterates

the need for further vigorous efforts from High Contracting Parties, United Nations, international and regional organizations, International Committee of the Red Cross and non-governmental organizations to promote universalization of the Protocol.

76. *Notes* with appreciation achievements within Protocol V, especially the progress on the promotion and implementation of Articles 3 and 4, efforts to raise awareness of the needs of affected States in the area of cooperation and assistance; promotion of Article 8(2) and the Plan of Action on Victim Assistance along with the adoption of a reporting template on Victim Assistance; the discussion on the safe storage of munitions and the management of munitions sites; and that 66 High Contracting Parties have submitted a national report.

77. *Encourages* the High Contracting Parties to Protocol V to continue with their efforts to encourage a higher rate of national reporting, including through the consideration of an expert mechanism; to convene an Article 4 workshop; to consider in-depth the clearance of explosive remnants of war and generic preventive measures; and to prioritize the work on cooperation and assistance and victim assistance.

78. *Acknowledges* the cooperative approach of High Contracting Parties to Protocol V and that this has been facilitated through the decision of the First Conference of the High Contracting Parties to Protocol V in 2007 to establish a mechanism for consultation and cooperation consisting of informal meetings of experts chaired by coordinators of which there have been nine meetings. Each year the High Contracting Parties shall determine the focus of the meetings of experts to be chaired by coordinators.

79. *Further acknowledges* that, in accordance with Article 10 of Protocol V, ten Conferences of the High Contracting Parties have been held for the purpose of consultations and cooperation on all issues related to the operation of Protocol V.

80. *Acknowledges* the valuable contributions and work of relevant agencies and bodies of the United Nations; relevant international and regional organizations; International Committee of the Red Cross, Geneva International Centre for Humanitarian Demining, as well as of non-governmental organizations in a number of fields relevant to Protocol V, in particular the care and rehabilitation of victims of explosive remnants of war, risk education, and clearance, removal or destruction of unexploded ordnance and abandoned explosive ordnance.

81. *Recommends* that future Conferences of the High Contracting Parties to Protocol V be held back-to-back with meetings of the High Contracting Parties to the Convention and the Annual Conferences of the High Contracting Parties to Amended Protocol II.

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