

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

24 August 2016

English only

Preparatory Committee
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Item 7 of the provisional agenda
Preparations for Main Committee I

Draft Final Declaration

The High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, which met in Geneva from 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 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,

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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,

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

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 a responsibility to respect international humanitarian law during an armed conflict and 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 that all States 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 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 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,
15. Their recognition that the Implementation Support Unit has successfully fulfilled its ongoing mandate to promote the Convention and its Protocols, provide substantive and secretariat support to meetings, facilitate the exchange of information among States and organisations, and assist High Contracting Parties with the implementation of the Convention and its Protocols

II. Advancing the Convention and its Protocols

Over the next review cycle the High Contracting Parties will:

Universalization

1. The officeholders of the CCW, Protocol V and Amended Protocol II to promote universalization of the Convention and its Protocols, and specifically to address States not party, coordinate their activities 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 on in this area.

2. High Contracting Parties under the Standing Agenda Item on Universalization 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.
3. 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.
4. High Contracting Parties which are only party to Protocol II are to consider adhering to Amended Protocol II.
5. The Implementation Support Unit 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

6. 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.
7. High Contracting Parties are 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.
8. In reporting on their compliance with the Convention and its Protocols, High Contracting Parties are to pay particular attention to the content and status of national legislation to implement and enforce the Protocols, including provisions to prevent and suppress violations; and the incorporation of the Protocols into military manuals and the training curriculum of its armed forces.
9. High Contracting Parties are to reinforce their efforts to disseminate information on the Convention and its Protocols to their armed forces and civilian population.
10. High Contracting Parties are to consider and share their experiences on providing assistance and cooperation for the implementation of the Protocols.
11. High Contracting Parties to consider how to encourage and support States that have not yet done so to conduct reviews to determine whether any new weapon, means or method of warfare can be used or carried out in accordance with the principles and rules of international humanitarian law.

Sponsorship Programme

12. 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 States Parties.

Implementation Support Unit

13. 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.

14. 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 States Parties to be circulated as an official document.

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

AND TAKES THE FOLLOWING DECISIONS:

[Lethal Autonomous Weapons]

[...]

[...]

III. Review:

The Conference:

1. 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.

2. 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.

3. Underlines the need to achieve universal adherence to the Convention and its annexed Protocols. The Conference welcomes recent ratifications and accessions to the Convention and its annexed Protocols and urges the High Contracting Parties to accord high priority to their diplomatic efforts to encourage further adherence with a view to achieving universal adherence as soon as possible.

Article 1

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

2. The Conference calls upon States which have not yet done so to ratify, accept, approve or accede to, as appropriate, the amendment to Article 1.

Article 2

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

Article 3

The Conference notes the provisions of Article 3.

Article 4

1. The Conference acknowledges that 123 States have ratified, accepted, acceded or succeeded to the Convention.
2. The Conference calls upon States which are not parties to this Convention to ratify, accept, approve or accede to, as appropriate, the Convention, thus contributing to the achievement of universal adherence to the Convention.

Article 5

1. The Conference notes the provisions of Article 5.
2. The Conference recalls in particular the provisions of paragraph 3 of this Article, which stipulates that each of the Protocols annexed to the Convention shall enter into force six months after the date by which twenty States have notified their consent to be bound by it.

Article 6

1. The Conference encourages international cooperation in the field of dissemination of the Convention and its annexed Protocols and recognizes the importance of multilateral collaboration relating to instruction, the exchange of experience at all levels, the exchange of instructors and the organization of joint seminars. The Conference underlines the importance of the High Contracting Parties' obligation to disseminate this Convention and its annexed Protocols and, in particular, to include the content in their programmes of military instruction at all levels.
2. The Conference welcomes the work of the Sponsorship Programme to promote awareness and understanding of the Convention and its annexed Protocols.
3. The Conference 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

1. The Conference notes the provisions of Article 7.
2. 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

1. The Conference notes the provisions of Article 8.
2. The High Contracting Parties agree to convene [To be completed].
3. The High Contracting Parties recall their agreement reached at all four previous Review Conference that such conferences should continue to be held on a regular basis.

Article 9

The Conference notes with satisfaction that the provisions of this Article have not been invoked.

Article 10

The Conference notes the provisions of Article 10.

Article 11

The Conference notes the provisions of Article 11.

Protocol on Non-Detectable Fragments (Protocol I)

The Conference 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

The Conference 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

[To be submitted from the Eighteenth Annual Conference of Amended Protocol II.]

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

1. The Conference notes the provisions of this Protocol.
2. The Conference notes the concerns raised by a number of High Contracting Parties over the allegations of use of incendiary weapons against civilians. The Conference further notes that there was no agreement on various aspects of this matter.

Protocol on Blinding Laser Weapons (Protocol IV)

The Conference notes the provisions of this Protocol and welcomes that there has been no confirmed use of blinding laser weapons.

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

[To be submitted from the Tenth Conference of Protocol V.]
