

**SECOND REVIEW CONFERENCE OF THE STATES 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 4th MEETING**

Held at the Palais des Nations, Geneva,  
on Friday, 21 December 2001, at 11 a.m.

President: Mr. LUCK (Australia)

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The meeting was called to order at 11.15 a.m.

REPORT OF THE CREDENTIALS COMMITTEE (agenda item 16) (CCW/CONF.II/CC/1)

1. Mr. KOLAROV (Bulgaria) introduced the draft report of the Credentials Committee (CCW/CONF.II/CC/1) with oral amendments that would be reflected in the final document of the Conference. To date, 52 States parties had submitted formal credentials in due form; six had submitted provisional credentials in the form of a telefaxed copy; and eight had designated their representatives by means of notes verbales or letters from their permanent missions. Paragraph 9 of the draft report should be amended to read: "The Credentials Committee decided to accept the credentials of the participating States parties on the understanding that the originals of the credentials in due form required by Rule 3 of the Rules of Procedure for the States parties listed in paragraph 7 I (b) and (c) would be forwarded to the Secretary-General of the Conference as soon as possible."
2. The PRESIDENT said that he took it that the Conference wished to approve the report of the Credentials Committee, as orally amended, and adopt the resolution contained therein.
3. It was so decided.

REPORTS OF THE MAIN COMMITTEES (agenda item 17) (CCW/CONF.II/MC.I/1;  
CCW/CONF.II/MC.II/1)

4. Mr. SANDERS (Netherlands) introduced the report of Main Committee II, pointing out the Committee's proposals had been referred to Main Committee I for further consideration and incorporation into the Final Declaration of the Conference.
5. The PRESIDENT said that he took it that the Conference wished to take note of the report of Main Committee II.
6. It was so decided.
7. Mr. SOOD (India) introduced the report of Main Committee I, drawing attention to the draft Final Declaration annexed thereto.
8. The PRESIDENT said that he took it that the Conference wished to take note of the report of Main Committee I.
9. It was so decided.

REPORT OF THE DRAFTING COMMITTEE (agenda item 18)

10. The PRESIDENT said that the Main Committees had worked so efficiently that it had not been necessary to convene the Drafting Committee; consequently the Drafting Committee had not produced a report.

CONSIDERATION AND ADOPTION OF THE FINAL DOCUMENTS (agenda item 19)  
(CCW/CONF.II/L.1 and Corr.1 and CCW/CONF.II/L.2 and L.3)

11. The PRESIDENT said that he took it that the Conference wished to adopt the Final Declaration, as reproduced in the annex to the report of Main Committee I (CCW/CONF.II/MC.I/1).
12. It was so decided.
13. Mr. ANTONOV (Russian Federation) said the Russian Federation believed that the decision of the Conference to extend the scope of application of the Convention to conflicts of a non-international nature was an important contribution to humanizing military operations, protecting the civilian population, and further strengthening the norms of international humanitarian law. Contemporary humanitarian law, which the Russian Federation sought unswervingly to develop and to comply with, should not be construed as preventing States from taking legitimate measures in case of urgent need to prevent acts of violence and secure domestic law and order, including the suppression of terrorist activities.
14. Mr. HEDBERG (Sweden) said that Sweden understood the word “legitimate” to mean that the measures undertaken should be in accordance with international humanitarian law, the Charter of the United Nations, and other rules of international law, as applicable.
15. Mr. GÓMEZ ROBLEDO (Mexico) said that, in approving the amendment to article 1 of the Convention, it was his Government’s understanding that the purpose of widening the scope of application of the Convention to cover the situations referred to in common article 3 of the 1949 Geneva Conventions was to raise the level of protection afforded by the Convention and its Protocols to the combatants of the warring parties and the civilian population in general. In that context, it was his Government’s understanding that all measures which a State party might adopt to maintain or re-establish law and order should be in strict conformity with international humanitarian law and the other applicable norms of international law and that the fight against the most serious forms of organized crime, including terrorism, could never justify any derogation from the obligations to which all States parties were subject, in conformity with international humanitarian law and human rights law. Without prejudice to the foregoing, the Mexican Government once again unequivocally condemned terrorism in all its forms and manifestations, whatever the motives of the perpetrators, and reaffirmed its full commitment to combating terrorism.
16. Mr. REYES RODRIGUEZ (Colombia) said the protection afforded by the amendment to civilians in internal (i.e. non-international) conflicts was a significant step forward.
17. Mr. HERBY (International Committee of the Red Cross) said that it was gratifying to note that, during the discussions on the Final Declaration, States parties had interpreted “legitimate” to mean “in accordance with international humanitarian law and other international norms”.

18. Mr. NYIKOS (Hungary), referring to the cost estimates for meetings in 2002 (CCW/CONF.II/L.2 and L.3), proposed that the item “pre-session documentation” should be deleted from the draft budget, thereby saving US\$ 240,000. The budgetary allocation was chiefly intended for the preparation and translation of working documents, yet translation was normally unnecessary because the material was intended for expert use.

19. Mr. SANDERS (Netherlands) said that it was important to budget for the possibility that State parties might wish to submit pre-session documents, translated if necessary. All States parties needed to be informed, in their own languages, of the work of the open-ended Group of Governmental Experts.

20. The PRESIDENT said that, notwithstanding the budgetary provision, States parties should consider whether translation of their pre-session documentation was in fact necessary. In the meantime, he took it that the Conference wished to approve the cost estimates for the meetings in 2002.

21. It was so decided.

22. The PRESIDENT said that it was necessary to appoint a President-designate for the 2002 meeting of States parties who would oversee the intersessional work. He took it that the Conference wished to recommend Mr. Sood (India) as President-designate, on the understanding that the nomination would be confirmed by the meeting of States parties in December 2002. He also took it that the Conference wished to appoint Mr. Sanders (Netherlands) and Mr. Kolarov (Bulgaria) coordinators for the two areas of work of the open-ended Group of Governmental Experts, namely explosive remnants of war and mines other than anti-personnel mines.

23. It was so decided.

24. The PRESIDENT said that, in order to ensure the entry into force of the amendment to article 1 of the Convention, the Secretary-General of the Conference would transmit the text of the amendment as adopted in the Final Declaration to the depositary of the Convention, namely the Secretary-General of the United Nations. The depositary would communicate the text of the amendment to all States parties to the Convention and would formally advise them that the amendment would enter into force, in accordance with article 8 (1) (b) of the Convention, six months after the date of deposit of the twentieth instrument of ratification, acceptance or approval of, or accession to the amendment. The entry into force would, of course, apply only to those States parties which had ratified, accepted, approved or acceded to the amendment. The basic principle was that amendments should enter into force in the same manner as the Convention itself.

25. Ms. BU FIGUEROA (Observer for Honduras), Mr. SUGONDHABHIROM (Observer for Thailand), Mr. CAHALANE (Ireland), Mr. KOLAROV (Bulgaria), Mr. MISTRÍK (Slovakia), and Ms. WALKER (International Campaign to Ban Landmines) drew attention to various omissions and inaccuracies in the draft procedural report of the Conference (CCW/CONF.II/L.1/Corr.1), which they trusted would be rectified in the final document.

26. The PRESIDENT said that the Final Declaration, the usual annexes, including the Committee reports, list of participants, and so forth, would be attached to the report to constitute the final document of the Conference. He took it that the Conference wished to adopt the report as orally amended.

27. It was so decided.

#### OTHER MATTERS

28. Mr. BASI (Pakistan) said that the successful outcome of the Conference was largely due to the leadership and diplomatic skills of its President and the dedication and diligence of the Australian delegation and the secretariat. He also paid tribute to the Secretary-General of the Conference and the chairmen of the two Main Committees.

29. Mr. SORBY (Norway) echoed the tribute to the President and chairmen. He said that the upshot of the Conference met most of his delegation's expectations, but there was no room for complacency: the decisions just taken represented a challenge for the future. He was particularly satisfied that the Conference had agreed on a broad mandate for the working group to consider all factors relating to explosive remnants of war. His Government expected to proceed towards a protocol on the topic with a view to reducing the indiscriminate effects of certain weapons, including submunitions.

30. Mr. LIVERMORE (Canada) remarked that talk of "unfinished business" at the close of the first Review Conference, in 1996, had been a veiled allusion to the fact that the Convention was at that time failing, and widely perceived as failing. The outcome now achieved held out hope that those failings could be forgotten. The Conference might, in other words, mark a new beginning: but that the Convention could indeed be a dynamic instrument, adapting to suit international realities, would have to be shown in the work done over the coming year. All parties concerned had high expectations which they would have to work very closely together to meet. His delegation was prepared to work with all States parties, the international community, the International Committee of the Red Cross and non-governmental organizations to demonstrate the dynamism of which it believed the Convention was capable.

31. Mr. HEINSBERG (Germany), speaking as the coordinator of the Western Group of States, thanked the President and officers of the Conference for their efforts. The Conference had had a positive result, underlining that multilateral diplomacy on disarmament was viable, could produce results and did have a future.

32. Mr. LINT (Belgium), speaking on behalf of the European Union and associated States, welcomed the successful outcome of the Conference and remarked that the most tangible result would be the extension of the scope of the Convention to cover internal conflicts. The European Union also welcomed the decision to set up an expert group on the subject of unexploded remnants of war - it hoped that the working paper it had submitted the previous day might provide some guidance - and the decisions on the subjects of anti-vehicle mines and verification.

33. Mr. LEMBAR (South Africa) expressed his thanks to the President, the officers of the Conference and the secretariat staff on behalf of the members of the Non-Aligned Movement and other States.

34. Mr. NYIKOS (Hungary), speaking as coordinator of the East European Group of States, echoed those sentiments. After recent events, many people had begun to think that disarmament efforts were on the decline; the Conference stood as a landmark on the way towards a safer world.

35. Mr. FU Zhigang (China) said that the success of the Conference was largely a result of the spirit of cooperation that had prevailed among delegations. It was to be hoped that that spirit would continue during the follow-up to the Conference, for only thus would progress be made.

36. Mr. CUMMINGS (United States of America) credited the extraordinary leadership of the President and officers of the Conference with the fact that the session had been a success in many respects. It had made a lasting contribution to international humanitarian law by extending the scope of the Convention and its protocols to non-international conflicts. It had increased support for balanced restrictions on the use of anti-vehicle mines: he thanked the States that had cosponsored his delegation's proposal on the subject and assured those that had felt unable to do so of his delegation's desire to continue to work closely with them on the issue; similarly, he looked forward to a productive year's work on the problem of unexploded remnants of war, in keeping with the spirit and purpose of the Convention.

37. Regarding the interpretation of the term "legitimate", his delegation's position was consonant with that expressed by the representative of Sweden and others, and was a matter of record in his Government's instrument of ratification of amended Protocol II.

38. He praised the collegial atmosphere that had prevailed throughout the negotiations, and the substantive solutions arrived at. The Convention was proving itself to be a dynamic, consensus-based regime that was responsive to changing times, legitimate security concerns and humanitarian priorities.

39. Mr. GOOSE (Human Rights Watch) said that the expansion of the scope of the three Protocols to internal conflicts represented an advance in the promotion of international humanitarian law; he urged Governments to accept the new provision as soon as possible. The formation of a group of governmental experts on explosive remnants of war was also a positive step, and he praised the International Committee of the Red Cross for its initiative on that issue. Because of the humanitarian imperatives involved, the group of experts should conclude its work within a year and pave the way for immediate negotiations on a protocol, to be concluded within a similar space of time. Its broad mandate allowed for examination both of the factors and types of munitions that caused humanitarian problems and of international humanitarian-law concerns. It should focus on the problems caused by cluster bombs and other submunitions, the proliferation of which increased danger to civilians; besides technical factors, the group needed to consider those related to the use and targeting of cluster munitions. Dangers to civilians during conflict were as important as the dangers to them afterwards.

40. In parallel to the group's work, States should take urgent unilateral steps, adopting and publicizing national "best practices" and taking other measures to reduce the problems caused by cluster munitions and explosive remnants of war. The group of experts should regard the non-governmental organization community, with its wealth of field-based experience, not as outsiders to its deliberations but as partners and practitioners.

41. Mr. LLOYD (Landmine Action - UK), speaking on behalf of 16 organizations in 11 countries, expressed his gratitude for the efforts by the International Committee of the Red Cross to prompt action on explosive remnants of war. The commitment by States parties to seek effective solutions to the problem through a group of experts was most important. In fact, however, the communities affected could not wait for years of discussion and negotiation: every time cluster munitions were used, those in need of humanitarian aid, aid workers, United Nations peacekeeping and other ground forces were placed at risk. Unexploded munitions were especially difficult to clear. The organizations for which he spoke therefore requested Governments to enact moratoria on the production, use and transfer of cluster munitions under the Convention. States could also make an immediate contribution by ensuring that the requisite resources were available for awareness and risk-reduction programmes, clearance operations etcetera.

42. Any future agreement to regulate the use of cluster weapons must stipulate that immediate, thorough clearance of unexploded ordnance was the responsibility of the user; the provision of technical information to facilitate clearance and of warnings to protect civilians should also be included.

43. Mr. ROSSITER (Viet Nam Veterans of America Foundation) hailed the adoption of a mandate for an expert group to study and make recommendations on ways of reducing casualties from explosive remnants of war. The inclusion in that mandate of the element of munition reliability was a significant step forward: the use of modern fuse technology could reduce dud rates and the resulting civilian casualties by 97 per cent. The United States and Switzerland had developed the technology; the Foundation urged them to use it on all their munitions and to share it with other nations. As United States Senator Leahy had said, there were good humanitarian and practical reasons why armed forces with cluster bombs should invest in reliable fuses. The Foundation looked forward to working with the expert group to make the replacement of antiquated cluster bombs a reality.

44. Ms. WALKER (International Campaign to Ban Landmines) welcomed the progress that had been made during the Conference, in particular the agreement on a broad mandate for a group of experts working on explosive remnants of war and anti-vehicle mines. The Campaign had always recognized the humanitarian impact of unexploded ordnance other than anti-personnel mines, and had decided to support the call for a moratorium on the use, production and transfer of cluster munitions. It advocated the urgent negotiation of a new protocol to the Convention covering explosive remnants of war, establishing that responsibility for clearing, or providing the assistance necessary to clear, unexploded ordnance lay with the user; that information to facilitate clearance must be provided immediately after use; that users of weapons likely to have a long-term impact must provide appropriate information and warnings to civilians both during and after conflict; and that the use of cluster munitions in or near concentrations of civilians was prohibited.

45. She urged all countries that had not yet done so to join the States parties to the Ottawa Convention. The Campaign and its member organizations would be available throughout the year to offer States their technical expertise and field-based experience. They welcomed the support that several States had shown for the inclusion of non-governmental organizations in the negotiating process, and believed they could make a positive contribution. Inter-sessional work under the Ottawa Convention had proved that a partnership of non-governmental organizations, international organizations and States parties could be both constructive and effective. The Convention on Certain Conventional Weapons could be an important international instrument for addressing humanitarian and conventional-weapons issues if work was conducted efficiently and the political will to accomplish something was present.

#### CLOSURE OF THE CONFERENCE

46. The PRESIDENT expressed renewed appreciation for the level of cooperation that had helped to make the session a success, and declared the Conference closed.

The meeting rose at 1 p.m.