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Geneva, 7-17 November 2006

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,  
on Friday, 17 November 2006, at 10 a.m.

President: Mr. RIVASSEAU (France)

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CONSIDERATION AND ADOPTION OF THE FINAL DOCUMENTS (continued)

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The meeting was called to order at 10.25 a.m.

CONSIDERATION AND ADOPTION OF THE FINAL DOCUMENTS (continued)  
(CCW/CONF.III/7/Add.7; CCW/CONF.III/8 and Amend.1)

Draft decision on compliance

1. The PRESIDENT said that, in addition to the amendments to the draft decision on compliance (CCW/CONF.III/8) that had previously been submitted to the Drafting Committee (CCW/CONF.III/8/Amend.1), the members of the General Committee and the representatives of Finland (on behalf of the European Union), the United Kingdom of Great Britain and Northern Ireland and Pakistan had unanimously agreed on a further amendment. They proposed that in part II, the second sentence of paragraph 15 should read as follows: "Upon request by a High Contracting Party, the Secretary-General, after previously informing the High Contracting Party concerned by the report, shall communicate this report to the High Contracting Party requesting such communication."
2. Mr. PANDEY (India) proposed that the words "previously informing" should be replaced by "having informed".
3. Paragraph 15, as amended, was approved for consideration by the Drafting Committee.

The meeting was suspended at 10.50 a.m. and resumed at 11.20 a.m.

Draft final declaration

4. The PRESIDENT invited the Conference to consider the draft final declaration (CCW/CONF.III/7/Add.7) together with the draft amendments to it which had not yet been submitted to the Drafting Committee, and which had been circulated in an informal paper. Since no consensus had been reached on what was initially intended to be the ninth preambular paragraph of the declaration, and since the issue of explosive remnants of war had been subsumed under the operative part, he said that that preambular paragraph would be omitted.

Eighth preambular paragraph

5. The eighth preambular paragraph was approved for consideration by the Drafting Committee.

Operative paragraph 4

6. Ms. DEEKS (United States of America), while considering the beginning of paragraph 4 redundant and the last clause of the paragraph sufficient, did not wish to stand in the way of consensus, and would accept the paragraph as it stood.
7. Operative paragraph 4 was approved for consideration by the Drafting Committee.

Operative paragraphs 5 and 11

8. Operative paragraph 5, as amended in accordance with the informal paper, and operative paragraph 11 were approved for consideration by the Drafting Committee.

Operative paragraph 12

9. Operative paragraph 12 was approved for consideration by the Drafting Committee.

Draft decisions

10. The PRESIDENT invited comments on the draft decisions (CCW/CONF.III/7/Add.7) and the proposed amendments to them which had been circulated in an informal paper, and which were to be forwarded to the Drafting Committee.

Decision 1

11. Decision 1 was approved for consideration by the Drafting Committee.

12. Mr. OCHOA (Mexico) expressed his delegation's disappointment at the outcome of the discussion on cluster munitions. Mexico was not used to opposing the outcomes of international discussions, but in the present case could not associate itself with the consensus on decision 1, which was too weak. The present Conference had been an outright failure in respect of cluster munitions. Perhaps the time had come to consider looking for a consensus on the topic outside the framework of the CCW, as had been done successfully in the case of other multilateral negotiations.

Decisions 2-4

13. Decisions 2-4 were approved for consideration by the Drafting Committee.

Decision 6

14. The PRESIDENT reminded the Conference that the regional groups should submit their nominations for the posts of Chairperson of the 2007 meeting of the States parties and the 2007 session of the Group of Governmental Experts.

15. Decision 6 was approved for consideration by the Drafting Committee, with minor drafting changes.

Review of the articles of the Convention

16. The PRESIDENT invited comments on the text containing the review of the articles of the Convention (CCW/CONF.III/7/Add.7), together with the proposed amendments thereto which had been circulated in an informal paper.

Article 8

17. The text on article 8 was approved for consideration by the Drafting Committee, with minor drafting changes.

OTHER MATTERS (CCW/CONF.III/WP.16, 17 and 18)

18. The PRESIDENT invited delegations to make comments or general statements on the outcome of the Conference.

19. Mr. MINE (Japan) said that Japan attached great importance to the CCW and appreciated the positive efforts and outcomes of the present Conference, including the establishment of a compliance mechanism, the entry into force of Protocol V and the deepening of discussions on explosive remnants of war, including cluster munitions. It was unfortunate that the Conference had not reached agreement on a protocol to minimize the humanitarian impact of mines other than anti-personnel mines which included rules on detectability and active life. Japan hoped that at the next meeting of States parties, agreement would be reached on the resumption of focused discussions on mines other than anti-personnel mines. Once such discussions resumed, Japan would contribute to the efforts to draw up an international instrument on the subject. He called on all States parties to make every possible effort to minimize the humanitarian damage caused by mines other than anti-personnel mines.

20. Mr. WIGOTSKI (Denmark), speaking on behalf of Australia, Bulgaria, Canada, Croatia, Denmark, El Salvador, Estonia, France, Israel, Latvia, Lithuania, the Netherlands, New Zealand, Norway, the Republic of Korea, Romania, Serbia, Slovenia, the United Kingdom of Great Britain and Northern Ireland and the United States of America, introduced a declaration on anti-vehicle mines (CCW/CONF.III/WP.16).

21. Mr. STREULI (Switzerland) said that, despite the laudable efforts made by the President and the chairpersons of the committees, the outcome of the Conference was disappointing. While the entry into force of Protocol V was to be commended, it was unfortunate that no consensus had been reached on concluding a new protocol to address the humanitarian risks posed by mines other than anti-personnel mines. The intention stated in the draft final declaration (CCW/CONF.III/7/Add.7) might, he hoped, facilitate a return to the negotiating table with a view to adopting such an instrument.

22. He was pleased with the progress made in the debate on explosive remnants of war, in particular submunitions. However, while States parties generally recognized the humanitarian risks posed by the use of such munitions, the mandate given to the Group of Governmental Experts was but a weak reflection of the political will to address those problems and improve the situation on the ground. Given the disastrous impacts on civilian lives and on the reconstruction of the countries affected, existing provisions in international humanitarian law were insufficient. Switzerland had long advocated the adoption of a binding international instrument that addressed all issues pertaining to the use of submunitions.

23. He was disappointed that the Conference had been unable to establish an effective mechanism to enforce the implementation of the Convention and its protocols. Respect for their provisions, and thus effective monitoring and cooperation, were crucial. Switzerland was pleased to note the participation of new States in 2007.

24. Mr. DUNCAN (United Kingdom of Great Britain and Northern Ireland), also speaking on behalf of France, gave a brief overview of the efforts made by the two countries over the past five years towards the adoption of a specific protocol on mines other than anti-personnel mines, and expressed support for the recommendations prepared by the Coordinator (CCW/GGE/XII/WG.2/1/Rev.2). It was regrettable that the Conference had been unable to adopt a legally binding instrument on the issue, and he called on all members to undertake a commitment to negotiate such a protocol.

25. The United Kingdom and France shared the concern of Denmark and other States concerning the humanitarian impact of mines other than anti-personnel mines. Although they were under no legal obligation to do so, the two countries would take the necessary steps to adopt the practices described in the declaration on anti-vehicle mines (CCW/CONF.III/WP.16) as a matter of national policy, in the hope of giving renewed impetus to the debate on the adoption of a relevant protocol.

26. Mr. BRASACK (Germany) presented a declaration on mines other than anti-personnel mines (CCW/CONF.III/WP.17).

27. Mr. HEDBERG (Sweden) introduced a declaration on cluster munitions adopted by Austria, Belgium, Bosnia and Herzegovina, Croatia, Costa Rica, the Czech Republic, Denmark, Germany, the Holy See, Hungary, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, New Zealand, Norway, Peru, Portugal, Serbia, Slovakia, Slovenia, Sweden and Switzerland (CCW/CONF.III/WP.18).

28. Mr. LEVANON (Israel) associated himself with the declaration on anti-vehicle mines, which was in line with Israel's policy and practices. Israel was committed to reducing human suffering caused by the irresponsible and indiscriminate use of certain conventional weapons, as illustrated by its accession to Amended Protocol II. In view of the increasing threat of terrorism, Israel welcomed in particular the provision prohibiting the transfer of mines to non-State actors. The principles set forth in the declaration accommodated the necessary distinction between military practices prevailing during armed conflicts and those applying in other situations. Israel understood the phrase "stated the same policy" in paragraph 2 (iii) to indicate the consent of the recipient State to apply the principles of the declaration. The declaration was an important contribution to the objectives of the CCW and could serve as a basis for future negotiations on a specific protocol on mines other than anti-personnel mines in the CCW framework.

29. Mr. KONGSTAD (Norway) said that, although the declaration on cluster munitions introduced by Sweden showed that the issue had attracted unprecedented attention and concern, the Conference had been unable to find an effective way to address the humanitarian impact of

the use of cluster munitions adequately and without delay. Norway had therefore decided to organize an international conference in Oslo, inviting interested countries, United Nations agencies, the International Red Cross and Red Crescent movement, other humanitarian organizations and NGOs, in order to start a process towards an international ban on cluster munitions that had unacceptable humanitarian consequences. The time had come to adopt concrete measures to end the untold human suffering caused by those munitions, taking advantage of the political will of many countries to address the issue. Efforts to achieve an international ban would be an important part of efforts to prevent humanitarian disasters that could pose a major obstacle to reconstruction and socio-economic development, unless effective action was taken promptly. Despite the complexity of the issue, he believed it was possible to find solutions that took account of both humanitarian needs and political and military considerations, in partnership with other relevant actors, to prevent future human suffering.

30. Ms. DARLOW (New Zealand) expressed regret that, notwithstanding the increased momentum towards negotiating a legally binding instrument on cluster munitions, States had been unable to agree anything more ambitious than a mandate to discuss such an instrument. As a co-author of the declaration on cluster munitions, New Zealand remained convinced that the humanitarian concerns posed by such munitions must be addressed urgently, and would take effective action to that end. She deeply regretted that the efforts expended over the past five years towards the adoption of a protocol on mines other than anti-personnel mines had yielded no tangible results. New Zealand supported the declaration on the subject introduced by the representative of Denmark, and would take action at the national level to mitigate the humanitarian impact of anti-vehicle mines. It encouraged other States to follow suit.

31. Mr. KAHILUOTO (Finland), speaking on behalf of the European Union and the acceding countries Bulgaria and Romania, expressed satisfaction with the progress made during the current Conference, especially the entry into force of Protocol V. The primary objective of the European Union had been to strengthen international law. It therefore welcomed the reference contained in the ninth preambular paragraph of the draft final declaration (CCW/CONF.III/7/Add.7).

32. The European Union was concerned about the humanitarian impact of cluster munitions, their disproportionate impact on civilian populations and the huge clearance burden they could create. It therefore regretted that its proposal to establish an open-ended group of governmental experts on the subject had been rejected. However, it took note of the decision to convene an intersessional meeting of governmental experts. He encouraged delegations to build on the commitments made with regard to mines other than anti-personnel mines, but expressed regret that no legally binding protocol which would strengthen international humanitarian law had been concluded. Since only a few countries had been unable to join the consensus, the efforts to conclude such an instrument should be revived at the earliest opportunity, on the basis of the recommendations presented on 22 November 2005 by the former Coordinator on mines other than anti-personnel mines.

33. Additional efforts must be made towards the universal and effective implementation of the Convention and its protocols, which contained minimum standards applicable in all armed conflicts. The European Union called on all States that had not yet done so to ratify or accede to the CCW, including amended article 1, and all five protocols. It welcomed the adoption of the Plan of Action to Promote the Universality of the Convention and the sponsorship programme, and would seek ways to support them. It also welcomed the decision on the regrettably limited compliance mechanism and remained interested in exploring all possible means to promote compliance and committed to upholding and strengthening the CCW regime.

The meeting rose at 1.05 p.m.