

MEETING 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 2nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 27 November 2003, at 3.50 p.m.

President: Mr. SOOD (India)

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The meeting was called to order at 3.50 p.m.

PRESENTATION OF CREDENTIALS

1. The PRESIDENT said he had been informed by the Chairman of the Credentials Committee that provisional credentials or formal credentials in due form had so far been received from only 39 States parties participating in the Meeting. Consequently, there was a risk that at their final session the parties might not be in a position, from the legal point of view, to adopt the draft protocol on explosive remnants of war and the draft report which were before them. He therefore called on all delegations which had not yet done so to present their credentials, even provisional credentials, to the Secretary-General of the Meeting as a matter of urgency.

CONSIDERATION OF THE REPORT OF THE WORK OF THE GROUP OF GOVERNMENTAL EXPERTS AND GENERAL EXCHANGE OF VIEWS (agenda item 11) (continued)

2. Mr. UMER (Pakistan) said that his country unreservedly endorsed the statement made at the previous meeting by the representative of South Africa on behalf of the group of non-aligned States and other States.

3. The Group of Governmental Experts had worked hard to fulfil its twin mandate, and had presented for consideration by States parties recommendations concerning both explosive remnants of war and mines other than anti-personnel mines. Regarding the protocol on explosive remnants of war as finalized by the Group on 24 November 2003, he continued to deplore its failure to assign responsibility for clearing existing remnants to those who had used munitions which had become explosive remnants of war. Article 7 of the draft referred to optional assistance in the clearance of such remnants, to be provided by high contracting parties, whoever they might be, or by non-parties to the protocol or international organizations, and not to assistance which any high contracting party which had generated the remnants would be expected to provide for their clearance. Nonetheless, in the interest of consensus, Pakistan had accepted the draft protocol as proposed, while strongly urging States which became parties to it to set themselves the task of rectifying that major gap in the course of implementation of the protocol.

4. Regarding mines other than anti-personnel mines, Pakistan was of the view that Amended Protocol II sufficiently covered the concerns raised by some delegations during the meetings of the Group of Governmental Experts, and that the effective implementation of the instrument would make a real contribution to achievement of the shared objective of preventing mines, booby-traps and other devices from harming the civilian population. At the same time, the need to strike a balance between humanitarian concerns and the military needs of States should not be overlooked. At all events, Pakistan was ready to examine all proposals on mines other than anti-personnel mines which might be put forward in 2004.

5. Pakistan was firmly committed to pursuing the goals and objectives of Amended Protocol II, and was striving as its resources allowed to participate in demining efforts and risk education activities in some regions of the world. It called for universal participation in Amended Protocol II, as well as the strengthening of cooperation among States, whether or not they were parties to the Protocol, and collaboration among international organizations in its implementation.
6. Ms. MOURABIT (Morocco), noting that even in 2003 her country had considered that the States parties to the Convention should draw up a binding instrument to address the post-conflict problems posed by explosive remnants of war, called for the adoption of the draft protocol proposed by the Group of Governmental Experts, which, she hoped, would help to put an end to the suffering of civilian populations, the main victims of such devices, and to save thousands of lives. She welcomed in particular the provisions in the draft relating to cooperation and assistance to countries affected by the problem in helping them to get rid of such dangerous remnants.
7. Morocco, which in 2002 had initiated the process of ratification of Protocol IV on blinding lasers and Amended Protocol II on mines, booby-traps and other devices, fully subscribed to the provisions of the two instruments and considered in particular that Amended Protocol II made an important contribution to international efforts to lessen the inhuman suffering caused by various types of mines and that it was an effective mechanism which could reconcile military considerations and humanitarian concerns. Morocco was convinced that efforts should continue to ensure universal participation in Amended Protocol II and foster cooperation among States, including those which were not parties to the Convention and its protocols, and principally those which, while endorsing the principles set forth in those instruments, had not yet signed them for economic or other reasons. Morocco wished to reaffirm its commitment to the principles and objectives of the Convention.
8. Mr. MOUNTAIN (Inter-Agency Standing Committee) pointed out that the Inter-Agency Standing Committee grouped together all the major United Nations humanitarian organizations and, with standing invitations, the Red Cross and Red Crescent movement, the International Organization for Migration and three consortia representing several hundred non-governmental organizations.
9. The Committee recognized that the international community had done much during the past decade to address the threat posed by anti-personnel mines, and welcomed the preparation of a draft protocol on explosive remnants of war, which the States parties to the Convention planned to adopt at the present Meeting. From the perspective of humanitarian workers, it was indeed essential to limit pollution of areas by explosive remnants of war, and it was important that the parties to an armed conflict should take responsibility for the long-term effects of the weapons they employed, and hence for clean-up operations.
10. That said, as a result of the work its members accomplished in the field, the Committee had become convinced that, of all munitions which became explosive remnants of war and therefore constituted a hazard for civilians, cluster munitions were the most deadly. An estimated 5-30 per cent of cluster munitions failed to explode when fired or dropped, either penetrating into the ground or remaining on the surface.

11. Unexploded munitions of that type located underground could impede the safe cultivation of land and the development of infrastructure long after conflicts had ended, as in Laos, Cambodia and Viet Nam. Those which lay very deep were undetectable by current technology and often rose to the surface during the wet season, killing farmers even in areas that had been cleared and declared risk-free. Cluster munitions that remained on the surface were often extremely sensitive and likely to explode when disturbed. They caused many victims among children, who were attracted by the shape and colour of those weapons, which resembled harmless toys: a year after the first Gulf war, doctors in Kuwait had found that 60 per cent of the victims of unexploded ordnance - mostly cluster munitions - were children aged under 15.

12. The problem was compounded by the very extensive use made of cluster weapons and the development of new models: following the military action in Afghanistan in 2001, the leaders of the United Nations mine action programme, even with the necessary military information, had documented 230 cluster strike areas, which had had to be surveyed and cleared after the teams had been retrained in detecting such munitions.

13. While appreciating the efforts of States parties to the Convention to address the problem of explosive remnants of war, the Committee was concerned that the issue of cluster munitions had not been adequately addressed. In fact, it was possible that those who used such munitions were unable to avert their unacceptable effects on civilians during and after conflicts. The members of the Committee therefore reiterated their earlier appeals for a freeze on the use of cluster munitions until effective legal instruments that resolved subsequent humanitarian problems were in place. They hoped that the Group of Governmental Experts would tackle that issue more specifically in 2004.

14. Mr. LAURIE (United Nations Mine Action Service) noted with satisfaction, with regard to the issue of explosive remnants of war, that the Group of Governmental Experts had completed the negotiation of a draft protocol on post-conflict remedial measures of a generic nature. He particularly welcomed article 3 of the final draft and especially article 4, on communication of information. The Service looked forward to the adoption of the draft protocol by the States parties to the Convention at the present Meeting.

15. Nevertheless, he considered that other issues regarding explosive remnants of war deserved further study, namely the implementation of existing principles of international humanitarian law and possible preventive measures aimed at improving the design of certain specific types of weapon. He welcomed with satisfaction the agreement reached at the present Meeting on the need for further work on certain issues relating to explosive remnants of war.

16. He expressed support for the statement made by the previous speaker, and in particular his call for a moratorium on cluster munitions until their use had been regulated.

17. On mines other than anti-personnel mines, he looked forward to the adoption of the mandates which the Group of Governmental Experts had recommended the Meeting to give it. In fact, the Service had repeatedly stated that the mines in question posed serious humanitarian problems and made clearance operations unnecessarily time-consuming, expensive and dangerous. Hence it fully supported the idea of starting negotiations on an instrument under

which all mines other than anti-personnel mines, and especially those placed outside marked areas, should contain a self-destruction mechanism, or at least mechanisms for self-neutralization or self-deactivation, so that they had a limited lifespan. Such mines should be detectable by commonly available equipment and should not be fitted with anti-handling devices or sensitive fuses that could be activated by the presence of, proximity of or contact with a person. He hoped that in 2004 the States parties would reach agreement to give the Group of Governmental Experts such a negotiating mandate.

18. Ms. ROVIROSA (Mexico), noting with satisfaction that amended article 1 of the Convention would enter into force on 18 May 2004, pointed out that, like Protocol IV, Amended Protocol II and the amended article 1, the draft protocol on explosive remnants of war had been negotiated so as to fill a legal gap and address a serious humanitarian problem. While she appreciated the difficulties encountered by the Group of Governmental Experts when negotiating the draft in arriving at consensus solutions, she could not help wondering at the modest results achieved in that regard as to the responsibility of the users of munitions that had become explosive remnants of war and the period to which the instrument applied. Had the original humanitarian objective been achieved, and would the rules drawn up make it possible to prevent and resolve the difficult situations facing the victims of armed conflicts? Important though the new protocol was, much remained to be done to meet the humanitarian challenge posed by explosive remnants of war. She hoped that the new protocol would be promptly ratified and implemented, and pointed out that genuine progress would be made only when the rules adopted were applied in practice by the armed forces of all the States parties.

19. As for the issue of specific preventive measures, which also formed part of the mandate of the Group of Governmental Experts, measures aimed solely at improving the reliability of certain types of munitions would not on their own make it possible to resolve the humanitarian problem posed by the munitions in question; measures involving the responsible use of munitions which did not explode systematically should also be envisaged. Mexico stood ready for continued work on that issue, as well as on the conformity of new arms and methods of war with the provisions of international humanitarian law.

20. The Convention and its protocols should be complemented by international verification machinery which was effective and non-discriminatory, enhanced trust among the States parties and promoted respect for the provisions of those instruments, as well as those of any protocol to be adopted in the future. Consideration of that issue should continue within the framework outlined at the Meeting of the States parties in 2002. In that regard she expressed her support for the document presented by the delegation of Sweden (CCW/GGE/III/WP.7).

21. Concerning the question of a new protocol on mines other than anti-personnel mines, Mexico considered that the suffering and devastation caused by the use of such mines, particularly anti-vehicle mines, far outweighed their supposed or actual military benefits. As currently designed, anti-vehicle mines had effects similar to those of anti-personnel mines, since the fact that they were very sensitive and were placed on roads or in areas close to population centres meant that they were often triggered by individuals or humanitarian aid teams. Mexico considered that efforts should be directed towards a complete ban on all types of mines. It was convinced that the ultimate objective should be the complete elimination of the humanitarian impact of such devices and not simply the technical improvement of anti-vehicle mines.

22. Mr. WENSLEY (South Africa) welcomed the historic breakthrough achieved by the States parties to the Convention in drawing up a protocol on explosive remnants of war so rapidly. The new protocol would address a specific demand by enabling the international community to pursue concerted efforts in a field which had not previously been comprehensively covered by an instrument of international humanitarian law, and it would ensure that the Convention continued to offer a way of addressing existing and new threats posed by weapons that were excessively injurious or had indiscriminate effects.

23. Delegations had informed the Meeting of their interpretations of certain articles of the new protocol. South Africa, for its part, considered that the obligations set out in it were perfectly clear: while requiring the contracting parties and the parties to an armed conflict to assume responsibility for explosive remnants of war located on territory under their control, it recognized that, without adequate technical, financial, material and human resources assistance, those parties could not discharge the obligations in question, and that the contracting parties which were in a position to do so should provide them with such assistance.

24. The States parties to the Convention should not believe that by adopting the new protocol they had achieved the key objective which, under the 2003 mandate, was to “reduce the risks” posed by explosive remnants of war. They would begin to move towards that objective only when they had made measurable progress in cutting the number of victims of such remnants and securing an overall reduction in their impacts on human beings.

25. Concerning further work on the issues of explosive remnants of war and mines other than anti-personnel mines, some of the views expressed during the Meeting and previously during the meetings of the Group of Governmental Experts suggested that the exercise would not be an easy one. His delegation would nevertheless approach the further consultations in a constructive manner. It considered that the programme of work should remain flexible and not lead the States parties to waste time. As the proposed mandates of the two working groups which were before the Meeting did not provide for the opening of negotiations, fewer sessions might be needed in 2004 than in 2003.

26. Lastly, concerning the issue of compliance with the provisions of the Convention and its protocols, he continued to believe that efforts should be made to devise verification machinery for all those instruments which was neither intrusive nor contentious.

27. Mr. DIOP (Senegal) pointed out that the Meeting offered an excellent opportunity to measure the progress made since the second Review Conference, in 2001, and to reflect on the best strategy for continuing to address the problems and dangers inherent in mines, and particularly anti-vehicle mines. The States parties had recognized that the use of mines and the existence of explosive remnants of war had dramatic repercussions on human health and the environment in their countries, as well as on their economies. Aside from the striking number of civilian but also military victims caused by such munitions and remnants each year throughout the world, entire regions remained unused because of their presence. In such circumstances, it was vital to strengthen the provisions of the Convention by establishing a new legal framework in that area.

28. Like the amendment of Protocol II in 1996 and the extension of its scope to non-international armed conflicts, the expected adoption of a new protocol on explosive remnants of war at the present Meeting confirmed the dynamic nature of the Convention, which the States parties were still seeking to adapt to the evolving situation and progress in respect of methods of war. The outcome of the work accomplished by the Group of Governmental Experts in 2003 was encouraging, and he welcomed the draft protocol on explosive remnants of war as the culmination of that work and the efforts of the various stakeholders to arrive at a more formal and hence more binding framework within which the scourge of such remnants could be combated.

29. Mr. LLOYD (Landmine Action) observed that the sessions of the Group of Governmental Experts and other meetings of the States parties had been conducted with greater transparency in 2003 than previously - a welcome development. The non-governmental organizations, including Landmine Action, had from the outset endeavoured to bring to the discussions on explosive remnants of war and mines other than anti-personnel mines the perspective of the affected communities, and to highlight the realities which their staff and partners had to face every day in the field.

30. While they understood the complexity of striking a balance between humanitarian and military perspectives, the non-governmental organizations were surprised that some States parties still failed to acknowledge the nature and scale of some of the problems they were supposed to be addressing. In particular, the humanitarian crises caused by mines other than anti-personnel mines, which persisted for years, had still not been fully recognized by all those involved, and nor had the dangers such devices posed for humanitarian workers and mine clearance staff. There was ample evidence of the need to conclude a legally binding protocol on mines other than anti-personnel mines.

31. Turning to the issue of explosive remnants of war, he pointed out that there was also a large body of evidence of the exceptional problems caused by cluster munitions that had become explosive remnants. Civil society had expressed great concern in that regard: in recent weeks over 100,000 people all over the world had registered with Landmine Action and other non-governmental organizations their support for a moratorium on the use and transfer of such weapons. The world outside the meeting room would judge the outcome of the work of the States parties to the Convention in 2003 in terms of their will to address the problem seriously. Landmine Action strongly urged the States parties to display such a will.

32. The draft protocol on explosive remnants of war which the States parties were preparing to adopt fell short of the expectations of the non-governmental organizations. They recognized the difficulties involved in reaching consensus, and applauded the unstinting efforts of the Coordinator on the matter and many other representatives in the hope of achieving a better outcome. There was merit in the practical measures set out in the protocol, but they must not become an excuse for not doing more. Landmine Action would reserve its judgement as to the success of the new protocol until it could see to what extent it would enable more resources to be allocated to deal with the explosive remnants of war which affected over 90 countries and territories worldwide and assist the growing numbers of victims.

33. Landmine Action urged all States parties to ratify the new protocol and implement it without delay. For its part, Landmine Action would do its utmost to encourage States which had not yet done so, and in particular those which were affected by the problem of explosive remnants of war, to accede to the Convention and the protocol. Early in 2004 the organization would publish, with the support of Norway, a guide to warnings and risk education for the civilian population, and later, with support from a number of States parties and in cooperation with its partners, an annual update of the global survey of explosive remnants of war. In fact, work on the issue was just beginning: no one should believe that what had been achieved in the present Meeting would have a real impact on the living conditions and livelihoods of those affected by explosive remnants of war unless all were committed to securing much greater progress.

34. Mr. VERMEULEN (Handicap International), noting that his organization had been set up to help the disabled, in particular those mutilated by explosive remnants of war, and had gradually become involved in accident prevention and humanitarian demining, welcomed with satisfaction the preparation of the draft protocol on explosive remnants of war. He noted in particular that the draft covered all such remnants and referred to State responsibility and the transmission of information. He hoped that the transmission of information would be organized without delay, to the benefit of demining operations.

35. Nevertheless, the protocol would not enable the number of new victims of existing explosive remnants to be reduced rapidly, it would not prevent the appearance of new ones and, if such remnants were to appear, it would not guarantee that the safety of the affected populations would be taken into account within a reasonable time.

36. Consequently, Handicap International called on States intending to become parties to move beyond the provisions of the protocol and in particular to do their utmost to prevent the appearance of new remnants of war and interpret the provisions on marking, clearance or destruction of such remnants in a manner which would best protect civilian populations. Handicap International would like to see States inform the world community about all unilateral initiatives they took to broaden the scope of the protocol and put into effect best practices followed by other States.

37. Since the prevention of new accidents among the civilian population remained the absolute priority, States should take all necessary steps to ensure that explosive remnants of war were marked, removed and destroyed as quickly as possible; they should also halt the use of cluster weapons for as long as the humanitarian problems posed by their use had not been resolved, and earmark the resources required to enable the victims of all explosive remnants of war to resume a decent life.

38. Mr. HANNON (Mines Action Canada), speaking on behalf of the 92 organizations from 43 countries which were members of the newly created Cluster Munition Coalition, welcomed with satisfaction the new legally binding protocol on explosive remnants of war, which related to post-conflict remedial measures of a generic nature, covered all types of munitions that might create explosive remnants and should lead to the release of more resources for clearance, risk education and victim assistance. He urged all States parties to the Convention to ratify the protocol as soon as possible and to comply fully with its provisions, including those of the technical annex.

39. Nevertheless, the new protocol fell short of the expectations of the non-governmental organizations: apart from the fact that it did not establish the responsibility of those who had used munitions which had become explosive remnants of war, the instrument did not apply to existing remnants and did not set deadlines for the implementation of its provisions, despite the urgency of the matter. The provisions were often ambiguous and qualified, so that much would depend on the way in which the States parties interpreted and implemented the obligations arising from them. The new instrument established minimum standards which fell below what many States were already doing. Hence States parties must strictly comply with existing standards.

40. He also regretted that the new protocol did not deal with preventive measures and covered only part of the problem posed by explosive remnants of war, ignoring the issue of cluster submunitions. Yet submunitions posed an especially high risk to civilians and stood out as the weapons most in need of stronger national and international regulation. There were currently 33 producers and 58 countries that owned cluster submunitions around the world; 39 States parties to the Convention and 2 signatory States had stockpiles of such weapons or used them.

41. All the organizations in the Coalition, whether they were involved in clearing areas contaminated by explosive remnants of war, victim assistance or risk education, believed that there was an urgent need for substantive work on the issue of submunitions, and noted with satisfaction that a number of States, including Austria, Canada, Ireland, New Zealand, Norway, Sweden and Switzerland and the European Union countries, were of the same opinion. The Coalition welcomed the fact that the delegations had agreed to continue work on the matter, under the mandate to be given to the Group of Governmental Experts, and that they would strive to move forward on the issue and take the necessary steps. The Coalition also welcomed with satisfaction the continuation of work on mines other than anti-personnel mines, a category which also included cluster munitions.

The meeting rose at 4.55 p.m.