

2003 session
Geneva, 27 and 28 November 2003

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 28 November 2003, at 10 a.m.

Chairman: Mr. SOOD (India)

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The meeting was called to order at 11 a.m.

REPORT OF THE CREDENTIALS COMMITTEE

1. The CHAIRMAN invited the Chairman of the Credentials Committee to present his report.
2. Mr. FAESSLER (Switzerland) said that the Credentials Committee had held two meetings, on 27 and 28 November 2003, to examine the credentials received from States parties to the Convention. To date, formal credentials in due form had been received from 33 States parties, and provisional credentials from 12 States parties. A further 18 States parties had designated representatives. Consequently, a quorum had been reached in the terms of rule 18 of the rules of procedure. The Committee had agreed to accept the credentials of all the participating States parties in question on the understanding that the originals would be submitted as soon as possible, in accordance with rule 3 of the rules of procedure.
3. Mr. VALLE FONROUGE (Argentina) asked for his country to be added to the list of those that had submitted provisional credentials.
4. The CHAIRMAN said he took it that the Meeting wished to approve the report of the Credentials Committee, as amended, and adopt the draft decision recommended to it by the Committee.
5. It was so decided.

ADOPTION OF THE REPORT OF THE MEETING (CCW/MSP/2003/CRP.2)

6. The CHAIRMAN introduced the draft report of the Meeting (CCW/MSP/2003/CRP.2), and invited the participants to take it up paragraph by paragraph.

Paragraphs 1-15

7. Paragraphs 1-15 were adopted.

Paragraph 16

8. The CHAIRMAN said that Luxembourg and Peru would be added to the list in paragraph 16.
9. Paragraph 16, as amended, was adopted.

Paragraph 17

10. The CHAIRMAN said that Turkey and Viet Nam would be added to the list in paragraph 17.
11. Paragraph 17, as amended, was adopted.

Paragraph 18

12. The CHAIRMAN said that Singapore would be added to the list in paragraph 18.

13. Paragraph 18, as amended, was adopted.

Paragraphs 19-22

14. Paragraphs 19-22 were adopted.

Paragraph 23

15. The CHAIRMAN said that the non-governmental organization Pax Christi would be added to the list in paragraph 23.

16. Paragraph 23, as amended, was adopted.

Paragraph 24

17. Paragraph 24 was adopted.

Paragraph 25

18. The CHAIRMAN acknowledged that the decision to adopt the Protocol on explosive remnants of war had been taken when only the English version was available, so that it was subject to checking of the other language versions by States whose working language was not English. He invited the Meeting to adopt paragraph 25 on that understanding.

19. Paragraph 25 was adopted.

Paragraphs 26-33

20. Paragraphs 26-33 were adopted.

Annexes I-IV

21. Annexes I-IV were adopted.

22. The report as a whole, as amended, was adopted.

23. The CHAIRMAN observed that the Meeting had just adopted a new, fifth protocol to the Convention on Certain Conventional Weapons. It would be known as Protocol V on Explosive Remnants of War. He said that, as the Chairman of the Meeting of States Parties and on behalf of the States parties, and in accordance with article 8, paragraph 2 (a), of the Convention, he would write to the Secretary-General of the United Nations, in his capacity as Depository of the Convention and its protocols, informing him that the States parties to the Convention had

adopted the Protocol on Explosive Remnants of War as an additional protocol to the Convention. The United Nations Office of Legal Affairs would then carefully check the legal terminology used and verify the authenticity of the translations of the text into the other five working languages of the United Nations: Arabic, Chinese, French, Russian and Spanish. Observations made by non-English-speaking States parties could also be taken into account at an appropriate stage. Subsequently the Depositary would notify the States parties to the Convention of the above procedure, and then invite them to ratify the new protocol and to deposit with him their instruments of ratification or their notifications of consent to be bound by it.

OTHER MATTERS

24. Mr. TREZZA (Italy), speaking on behalf of the European Union, the acceding countries Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia and the associated countries Bulgaria and Romania, said that the Convention had been strengthened as a result of the conclusion of a legally binding protocol on explosive remnants of war, the agreement of a mandate on anti-vehicle mines, the compromise on work on specific measures of a preventive nature, and the decision to hold consultations on compliance. Congratulations were due to all concerned for their hard work and constructive spirit of compromise.

25. Ms. MAKUPULA (South Africa), speaking on behalf of the Non-Aligned Movement and other States, said that the conclusion of a legally binding instrument on post-conflict remedial measures relating to explosive remnants of war in the context of expansion of the scope of the Convention had been a necessary step, as a political agreement would have fallen short of the common objective of alleviating the continuing threat to humanity. Agreement on that key humanitarian issue should be followed by concrete and comprehensive implementation by all high contracting parties, in the shape of the provision of technical, financial, material and human resources assistance to one another. The protocol also contained important provisions on the issue of existing explosive remnants of war and the obligations of users relating to clearance in territories over which they did not exercise control.

26. Ms. BONNIER (Sweden) welcomed the adoption of the protocol as an essential step in strengthening the protection of civilians from the hazards caused by explosive remnants of war, though she would have wished for a stronger instrument with fewer qualifications. Now further work was needed to increase protection for civilians, not least by preventing submunitions from becoming explosive remnants of war. The implementation of international humanitarian law must also be considered in that context. It was Sweden's understanding that the "rules of international law" referred to in article 1, paragraph 1, of the Protocol covered both treaty law and customary law, and thus also the important principles of international humanitarian law; and that the expression "laws of armed conflict" covered both the so-called Hague law and the so-called Geneva law, as well as applicable human rights law.

27. Mr. GEVELT (Norway) said there was an urgent need to address the issues of explosive remnants of war and mines other than anti-personnel mines in an even more comprehensive and focused manner than hitherto. He regretted that the mandates just adopted on anti-vehicle mines and preventive measures with regard to explosive remnants of war fell short of expectations.

However, the fruitful discussions that had taken place since the second review conference offered hope for further progress. He announced that Norway had just submitted its instrument of ratification of the amendment to article 1 of the Convention.

28. Mr. CAUGHLEY (New Zealand) welcomed the adoption of the protocol, though he would have preferred stronger language in some articles. It was his expectation that States parties would implement the protocol in keeping with the letter and spirit of its overall objective. The provisions of articles 3 and 4 were of particular importance. He also welcomed the new, strengthened mandate on mines other than anti-personnel mines, urging the conclusion of a legally binding instrument which would achieve a balance between humanitarian concerns and real military requirements. There was also increasing concern in the international community regarding the issue of preventive measures to improve the design of specific types of munitions, in particular submunitions and the implementation of international humanitarian law - an issue which had important implications for the vitality of the Convention. Lastly, he hoped that there was general agreement that respect for existing rules under international humanitarian law was of fundamental importance in providing protection to those in need during and after armed conflicts.

29. Mr. RIVASSEAU (France) said he looked forward to further work on implementing the protocol on explosive remnants of war, pursuing the second part of the mandate in that area, and addressing the difficult and complex topic of anti-vehicle mines. France supported the Danish-United States proposal on the subject and would work to build consensus on the issue.

30. Mr. HEINSBERG (Germany), speaking on behalf of the Western group, welcomed the encouraging outcome of the Meeting, which had shown that multilateralism was alive and well and could produce results. He expressed appreciation to the Chairman and the two Coordinators, as well as the secretariat, and wished the future office holders well in the tasks which awaited them in 2004.

31. Mr. CUMMINGS (United States of America) congratulated the Chairman on the successful conclusion of the work of the Meeting and offered him best wishes for the future.

32. Mr. HORUMBA (Romania) drew attention to the fact that in a statement circulated the previous day, the Cluster Munition Coalition had listed his country among those which held stockpiles of cluster munitions or used them. He wished to place it on record that Romania did not use such munitions, and deplored such statements, which caused difficulties in its relations with institutions and non-governmental organizations active in the humanitarian field.

33. The CHAIRMAN said that a number of delegations had drawn the secretariat's attention to the fact that both "High Contracting Parties" and "States parties" were used in Convention-related documents, and had sought clarification as to the discrepancy. On being consulted, the United Nations Office of Legal Affairs had replied that article 2 of the Vienna Convention on the Law of Treaties defined a "Contracting State" as "a State which has consented to be bound by the treaty, whether or not the treaty has entered into force" and a "party" as "a State which has consented to be bound by the treaty and for which the treaty is in force". "High Contracting Parties" were not defined in the Convention, nor in the great majority

of treaties that had been deposited with the Secretary-General. It was felt that “High Contracting Parties” was a somewhat antiquated term which had now been replaced by “States parties”, and in the case of the Convention and its protocols the latter would seem to be appropriate in referring to States which had agreed to be bound by those instruments, though States were of course at liberty to adopt their own terminology.

34. He concluded by thanking all those who had contributed to the success of the current meeting, especially the two Coordinators, who had greatly facilitated his task. After expressing appreciation for the kind words addressed to himself, he conveyed best wishes to the Chairman-designate of the 2004 Meeting of the States parties and the two Coordinators appointed for the coming year.

The meeting rose at 12.25 p.m.