
Geneva, 24 and 25 November 2005

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 24 November 2005, at 10 a.m.

Temporary Chairperson: Mr. ROMAN-MOREY (Deputy Secretary-General of the
Conference on Disarmament and Director of the Geneva
Branch of the Department for Disarmament Affairs)

Chairperson: Mr. MARKOTIĆ (Croatia)

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The meeting was called to order at 10.20 a.m.

OPENING OF THE MEETING (item 1 of the provisional agenda)

1. The TEMPORARY CHAIRPERSON, acting on behalf of the Secretary-General of the United Nations, in his capacity as Depositary of 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 (the CCW Convention) and its Protocols, declared open the 2005 Meeting of the States Parties to the Convention.

CONFIRMATION OF THE NOMINATION OF THE CHAIRPERSON OF THE MEETING
(item 2 of the provisional agenda)

2. The TEMPORARY CHAIRPERSON reminded the participants that at their 2004 Meeting, the States parties had decided (CCW/MSP/2004/2, para. 32) to redesignate the representative of Croatia, Mr. Gordan Markotić, as Chairperson of the 2005 Meeting of the States Parties, and invited them to confirm that decision.

3. It was so decided.

4. Mr. Markotić (Croatia) took the Chair.

ADOPTION OF THE AGENDA (item 3 of the provisional agenda)

5. The provisional agenda (CCW/MSP/2005/1) was adopted.

CONFIRMATION OF THE RULES OF PROCEDURE (agenda item 4)

6. The CHAIRPERSON suggested that the 2005 Meeting of the States Parties should apply mutatis mutandis the rules of procedure adopted by the Second Review Conference (CCW/CONF.II/PC.1/1, annex II). Since it was evident that some of those rules were not relevant to a short meeting, he suggested that the Meeting should be guided by the rules in question and apply its good judgement and cooperative spirit to any situations which might arise. The rules would apply, inter alia, in the light of the statement made by the President of the Second Review Conference concerning rule 34: "It is affirmed that, in the deliberations and negotiations relating to the Convention and its annexed protocols, High Contracting Parties have proceeded on the basis of consensus and no decisions have been taken by vote."

7. It was so decided.

APPOINTMENT OF THE SECRETARY-GENERAL OF THE MEETING (agenda item 5)

8. The CHAIRPERSON, referring to rule 14 of the rules of procedure, said his consultations had indicated that there was agreement to appoint Mr. Peter Kolarov, Political Affairs Officer in the Geneva Branch of the Department for Disarmament Affairs, as Secretary-General of the Meeting. He took it that it was the wish of the Meeting to appoint Mr. Peter Kolarov as Secretary-General of the Meeting.

9. It was so decided.

ELECTION OF VICE-CHAIRPERSONS (agenda item 6)

10. The CHAIRPERSON pointed out that, as in the previous three years, the 2005 Meeting of the States Parties was an abridged version of a review conference. Given the short duration of the meeting, he suggested establishing a streamlined bureau consisting of the Chairperson, the representatives of China, Germany (on behalf of the Western Group), the Czech Republic (on behalf of the Eastern Group) and Jordan (on behalf of the Non-Aligned Group), the Coordinators of the two working groups, the Chairperson of the meetings of military and technical experts on explosive remnants of war and the Chairperson of the meetings of military experts on mines other than anti-personnel mines, on the understanding that such a procedure would not set a precedent for future meetings of the States parties.

11. It was so decided.

MESSAGE FROM THE SECRETARY-GENERAL OF THE UNITED NATIONS (agenda item 7)

12. At the invitation of the Chairperson, Mr. ROMAN-MOREY (Deputy Secretary-General of the Conference on Disarmament and Director of the Geneva Branch of the Department for Disarmament Affairs) read out a message from the Secretary-General of the United Nations.

13. In his message, the Secretary-General said that the CCW process had seen major developments since the 2001 Review Conference. The scope of the Convention had been expanded, and a fifth Protocol had been adopted, on explosive remnants of war, which now had 13 States parties. That successful example should be followed to secure further progress in the area of mines other than anti-personnel mines.

14. Another welcome development was the work on ways to strengthen the implementation of international humanitarian law to address the humanitarian and development impact of submunitions. The Secretary-General called on States to respect existing humanitarian law on the use of cluster munitions, and to pursue work on that subject in 2006. Lastly, he hoped that a common understanding would be reached on an effective, flexible and transparent compliance mechanism for the Convention and all its protocols.

ADOPTION OF FINANCIAL ARRANGEMENTS FOR THE MEETING (agenda item 8)

15. The CHAIRPERSON noted that at their 2004 Meeting, the States parties had adopted the cost estimates for the present Meeting and for the three sessions of the Group of Governmental Experts to be held in 2005 (CCW/MSP/2004/2, annexes II and III). He was informed by the secretariat that the actual figures would be available only upon the conclusion of the Meeting. Since the financial arrangements for the Meeting had been adopted in 2004, no further action was called for.

REPORT OF THE WORK OF THE GROUP OF GOVERNMENTAL EXPERTS OF THE STATES PARTIES TO THE CONVENTION (agenda item 9)

16. The CHAIRPERSON reminded the participants of the decisions of the 2004 Meeting of the States Parties in the areas of explosive remnants of war and mines other than anti-personnel mines, as well as possible options to promote compliance with the Convention and its protocols

(CCW/MSP/2004/2, paras. 25, 26 and 27). The report of the twelfth session of the Group of Governmental Experts (CCW/GGE/XII/4), along with the reports of the Group's tenth and eleventh sessions (CCW/GGE/X/5 and CCW/GGE/XI/4), provided a complete account of its work during 2005. Moreover, the Group had included five recommendations in its report. Firstly, the Third Review Conference should be held from 7 to 17 November 2006 in Geneva, with preparations to be undertaken by the existing Group of Governmental Experts and the 2005 Meeting of the States Parties to nominate a President designate for the Conference.

17. Secondly, the President designate should hold consultations during the intersessional period on possible options to promote compliance with the Convention and its protocols, taking into account proposals put forward, and submit a report to the States parties. Thirdly, the President designate should hold consultations during the intersessional period on the possibility of establishing a sponsorship programme under the Convention and the possible features of such a programme, and submit a report to the States parties. Fourthly, the Group should hold three sessions during 2006, at dates to be decided by the 2005 Meeting of the States Parties. Lastly, the President designate of the Third Review Conference should carry out follow-up work arising from the 2005 Meeting of the States Parties.

CONSIDERATION OF THE REPORT OF THE WORK OF THE GROUP OF GOVERNMENTAL EXPERTS AND GENERAL EXCHANGE OF VIEWS (agenda item 10)

18. Mr. KOVAR (United States of America) noted that although significant progress had been made in the Group of Governmental Experts in 2005, not all of that progress was reflected in the Group's report, and the emerging consensus on mines other than anti-personnel mines had not been mentioned at all. He invited those who had pointed out that not all positions had been taken into account in the Coordinator's paper on the subject to consider how much that paper diverged from the 31-nation proposal. It was important that the Coordinator's paper should not be a mere undifferentiated listing of all the proposals that had been made; that purpose was already served by the annexes to the Group's report.

19. Many delegations, including the authors of the 31-nation proposal, had worked hard to accommodate the concerns of others, and the current Meeting should focus on what should be done in the area of mines other than anti-personnel mines in 2006. It should, he believed, recognize the progress that had been made so far and adopt a mandate for the negotiation and conclusion of a protocol on mines other than anti-personnel mines, on the basis of existing proposals, for adoption no later than the 2006 Review Conference.

20. Mr. LEVANON (Israel) said that work on mines other than anti-personnel mines over the last four years could be divided into a phase of study of humanitarian effects and military needs, and a phase of consideration of proposals. The time had now come to move on to the last phase, that of negotiating an instrument for presentation at the time of the 2006 Review Conference at the latest. It should be based on three propositions: that all mines placed outside a marked area should be detectable, that all remotely delivered mines should be equipped with self-destruction or self-neutralization mechanisms, with a back-up self-deactivation feature, and that all persistent landmines should be emplaced in marked areas.

21. Concerning explosive remnants of war, he welcomed the initiative for the circulation of a questionnaire on the applicability of international humanitarian law, but considered that priority should be given to reflection on the effectiveness and implementation of Protocol V. As for compliance mechanisms, he said that they could not replace the good faith of a State in assuming an obligation, that committees had the potential of being politically manipulated, and that there was no substitute for direct dialogue between the parties to a dispute. The compliance mechanism adopted for amended Protocol II should be applied to the rest of the Convention.

22. Mr. MACLACHLAN (Australia) said that the Coordinator's recommendations on mines other than anti-personnel mines accurately summed up the views of the Group of Governmental Experts and offered a sound basis for future work. In his view, the phase of discussion and consideration had been concluded, the key issues were now well understood, and a new protocol should now be negotiated. A "business as usual" approach in 2006 ran the risk of harming the credibility of the CCW process.

23. Australia was pleased with the progress made on explosive remnants of war, and had found the exchange on international humanitarian law useful as a basis for future work. The meetings of military experts had also been valuable. It was now time to move on to negotiations on a protocol on the subject.

24. Ms. PATERSON (United Kingdom), speaking on behalf of the European Union and the acceding States Bulgaria and Romania, expressed disappointment at the failure of the Group of Governmental Experts to reach agreement on a set of recommendations on mines other than anti-personnel mines, after much work to reconcile positions and identify common ground. She hoped that the current Meeting would point the way to the achievement of a negotiated outcome on the subject in 2006, on the basis of the carefully crafted recommendations of the Coordinator. A "business as usual" approach in 2006 was not acceptable.

25. She was pleased that the Protocol on explosive remnants of war was well on its way to entering into force, hopefully by the time of the Third Review Conference, and called on all States parties to ratify it as soon as possible. She also looked forward to further work on the application of existing principles of international humanitarian law in the context of explosive remnants of war. On compliance, she expressed continued support for the Chairperson in the search for an acceptable mechanism, and pledged a spirit of compromise and flexibility as efforts were made to merge the various approaches. Lastly, she expressed support for the draft appeal on the universalization of the Convention.

26. Mr. BENJABER (Morocco) welcomed the fact that discussions had been started on a sponsorship programme, which would help to address some of the difficulties encountered by developing countries in participating in CCW-related work. He emphasized that priority should be given to States parties which had limited resources, and that the programme should be drawn up by the States parties and be linked to the Convention, perhaps through a United Nations trust fund. On explosive remnants of war, he looked forward to the finalization of the process of revision of the various language versions of Protocol V, which should foster greater awareness among non-English-speaking States.

27. He emphasized the need to pursue efforts to secure universal adherence to the Convention and amended Protocol II, as well as cooperation with States that were not yet parties to the Convention. It was to be hoped that further progress would be made at the forthcoming Review Conference. On the subject of compliance, Morocco had taken note of the Chairperson's new proposal for Convention-wide machinery, and considered that its positive reception augured well for future discussions.

28. Mr. MEYER (Canada) said he was pleased at the inclusion of legal experts in the renewed mandate on explosive remnants of war at the 2004 Meeting of the States Parties, which had added value and scope to the work of the Group of Governmental Experts. He encouraged all States parties to continue to examine ways of applying existing principles of international humanitarian law. He looked forward to the entry into force of Protocol V. On mines other than anti-personnel mines, he continued to believe that a new legally binding protocol was essential, and that the time had come to move on to actual negotiations so as to reach a conclusion by the time of the Third Review Conference.

29. He welcomed the Chairperson's recent paper on compliance; a Convention-wide mechanism would form an important component of the CCW framework. Comprehensive and regular reporting was also of critical importance, and consolidation of reporting requirements could help to rationalize and maximize the utility of the process. Much remained to be done in the run-up to the Third Review Conference in order to maintain the credibility of the CCW.

30. Mr. ALEINIK (Belarus) said that the problem of the prohibition and destruction of mines should be tackled in stages and in the light of States' actual financial and technical capabilities. The current priority was to ensure universal adherence to the Convention and its protocols, as well as the Ottawa Convention, and the destruction of accumulated stockpiles of mines. Adoption of a legally binding instrument on anti-vehicle mines should take place only in the context of the above-mentioned tasks. Mines other than anti-personnel mines were exclusively defensive in nature, and the associated humanitarian risks had been exaggerated. Most of the aspects of the problem of anti-vehicle mines had already been addressed in amended Protocol II. The Coordinator's paper was worded in such a way as to weaken most States' defensive doctrines. The discussion had failed to establish a balance between humanitarian and military considerations. Setting ambitious targets was inappropriate. Since a number of key issues relating to such mines had not been fully studied, it was premature to start talks on a new instrument.

31. In the context of the need for unswerving compliance with the Convention and its protocols, the use of white phosphorus as an incendiary weapon in populated areas by a State party to the Convention was unacceptable, and a gross violation of Protocol III. It could not in any way be considered to be a legitimate weapon in the planning and conduct of tactical operations. All States parties should help to promote the universality of the Convention and its protocols, and comply with them strictly, and he supported the earliest possible establishment of a compliance mechanism on the basis of the South African proposal.

32. Mr. HU (China) attributed the success of the CCW Convention, a model of multilateralism, to its two underlying principles of balance and consensus. The amendment to article 1 had enhanced the effectiveness of the Convention and promoted the development of international humanitarian law. He welcomed the increase in the number of States that had

ratified the amendment. He was also encouraged by the rising number of ratifications of Protocol V, which comprehensively addressed the humanitarian concerns posed by explosive remnants of war.

33. He expressed appreciation for the Chairperson's new proposal on compliance, as well as the efforts of the coordinators on anti-vehicle landmines and explosive remnants of war. Concerning the former topic, he reaffirmed that such mines remained important legal and effective defensive weapons; that there was a need for balance between security needs and humanitarian concerns; and that solutions should be feasible and widely accepted to ensure universal implementation. As wide divergence persisted on many basic elements of the issue, the idea of negotiating a legally binding instrument was premature, and so the existing mandate of the Group of Governmental Experts should be maintained for a further year, not to impose a standstill but to make it possible to try to bridge differences and broaden the consensus.

34. Concerning explosive remnants of war, it was appropriate, practical and realistic to extend the discussion mandate for the coming year. On compliance, discussions to date had been fruitful, and the way ahead was becoming clearer. Lastly, he welcomed the secretariat proposal concerning the establishment of a sponsorship plan to facilitate developing country participation in CCW meetings.

35. Mr. WENSLEY (South Africa) said he remained open-minded regarding proposals on both mines other than anti-personnel mines and explosive remnants of war. South Africa, which recognized the military utility of mines other than anti-personnel mines as well as the related humanitarian concerns, was following current discussions with keen interest so as to be able to take their outcome into account when introducing a new generation of such mines. Concerning compliance, he welcomed the positive shift reflected in the Chairperson's latest attempt to find common ground between the European Union and South African proposals. Despite the reservations that had been expressed at the recent session of the Group of Governmental Experts, South Africa would support any emerging consensus based on the Chairperson's proposals, though it had not withdrawn its own. He hoped that it would be possible to put concrete proposals before the Third Review Conference for adoption, thereby underlining the dynamic and contemporary nature of the CCW in addressing emerging humanitarian threats.

36. Mr. LEON GONZALEZ (Cuba) said that the existing rules on mines other than anti-personnel mines set out in the Convention adequately covered the technical and humanitarian aspects of such mines, so that there was no need for new legally binding measures or for negotiations on the matter. The problems posed by such mines arose from their use, not their design. Current proposals lacked balance between military needs, humanitarian concerns and the availability of financial and technical resources required for the proposed improvements. Developing countries should not be forced to relinquish such weapons because the major Powers hypocritically wished to impose a monopoly on the production of and trade in such mines.

37. Mr. MINE (Japan) called on States which had not yet done so to sign and ratify the Convention, all its protocols and revised article 1. He expressed great disappointment at the failure to reach final agreement on mines other than anti-personnel mines at the current meeting. It was extremely regrettable that the States parties had been unable to agree on the Coordinator's paper. It was vital to enter a new phase of formal negotiations in 2006 and

conclude a protocol on mines other than anti-personnel mines on the basis of the Coordinator's paper by the time of the Third Review Conference at the latest. He was confident that the few remaining areas of contention could be resolved during the negotiations.

38. He reiterated that a Convention-wide compliance mechanism was important to maintain the effectiveness of the Convention, and hoped that negotiations would reach consensus on the work for 2006. As adding new protocols to the Convention could help it to develop and evolve to tackle current problems, it was important to gain support from States parties for new practical proposals.

39. Mr. CAUGHLEY (New Zealand) encouraged all States which had not yet done so to submit responses to the questionnaire on the application of international humanitarian law by the deadline, as a contribution to identifying and addressing ways to enhance the implementation of existing provisions and considering new ones. He deeply regretted that it had not been possible to achieve consensus on a set of recommendations on mines other than anti-personnel mines at the recent session of the Group of Governmental Experts. While the final draft of the Coordinator's text was not ideal, it contained elements of flexibility and compromise which were needed to move consideration of the issue forward towards the conclusion of a legally binding instrument which adequately addressed humanitarian concerns while enhancing the credibility of the body of law built up in the framework of the Convention. It was not acceptable to contemplate a fifth year of so-called study and discussion.

40. Mr. KAHILUOTO (Finland) said that the Coordinator's proposals on mines other than anti-personnel mines were balanced, solid and substantive and furnished a sound basis for the completion of negotiations in 2006 in time for the Third Review Conference. Finland viewed such mines as legitimate defensive weapons, but acknowledged the strong humanitarian imperative underlying the effort to conclude a new protocol to the CCW Convention. The time was not one for "business as usual", but for finalizing the efforts which had been made so far.

41. Mr. BIELASHOV (Ukraine) expressed continued support for the conclusion of a legally binding instrument on mines other than anti-personnel mines, a matter of paramount humanitarian concern. At the same time, bearing in mind the significant expense involved in technical modification of such mines, the future instrument should include specific provisions relating to assistance in dealing with such problems. He also expressed support for the development of a Convention-wide compliance mechanism, which should be non-intrusive, cost-effective, transparent and acceptable to all. Ukraine had extensive experience in mine clearance techniques, which it stood ready to make available to other countries. It had also requested the United Nations Mine Action Service to assess the problem of unexploded remnants of war in Ukraine itself.

42. Monsignor TOMASI (Holy See) said he supported the rapid negotiation of an instrument to address the humanitarian risks associated with mines other than anti-personnel mines. He also called for a moratorium on the use of submunitions and a review of such weapons in the light of international humanitarian law. He welcomed the adoption of Protocol V to the Convention, an important multilateral tool for arms control, though he could have wished that it was more incisive. The Protocol marked a further step in the development and implementation of humanitarian law.

43. Mr. PARK (Republic of Korea) called for further joint efforts to promote universal adherence to the Convention, and expressed the hope that further deliberations on mines other than anti-personnel mines would lead to an agreement on a legally binding instrument. On explosive remnants of war, he reiterated that discussions should be concentrated on ways and means of ensuring the faithful implementation of the generic preventive measures contained in Protocol V while continuing to study further preventive measures at the expert level. The current exchange of views on the application of international humanitarian law was useful and helpful. He welcomed the emerging convergence among States parties on a compliance mechanism within the Convention modelled after amended Protocol II, and looked forward to final agreement being reached in the coming session of the Group of Governmental Experts.

44. Mr. de CARVALHO NETO (Brazil) expressed appreciation for the Chairperson's useful paper on compliance, which could facilitate considerable progress at the Third Review Conference. In that context, the South African proposal offered the most realistic basis for a compromise solution. On explosive remnants of war, he commended the Coordinator on his work and emphasized that the main task ahead was to promote the early entry into force of Protocol V. The Coordinator on mines other than anti-personnel mines was also to be commended, and any future instrument on the subject should acknowledge that such mines were of significant tactical importance, and could be used legitimately when preventive measures were strictly observed. Measures to restrict the use and production of such mines could not be translated into strict measures on detectability, active life, transfers and transition periods. In addition, any restriction on the use of such mines should be accompanied by obligations relating to international cooperation, assistance and the transfer of technology. Brazil favoured a discussion mandate for the coming year, but intended to support a negotiating mandate on mines other than anti-personnel mines once a clear-cut consensus among States parties had emerged.

45. Mr. LOKEN (Norway) expressed disappointment at the failure to find sufficient common ground to allow a conclusion to be reached concerning mines other than anti-personnel mines. Future discussions would require a clearer objective and a far stronger mandate, including a mandate to commence negotiations. More time should be spent on explosive remnants of war in 2006, and the quality of cluster munitions, and their sometimes irresponsible use, must remain a high priority. A continued and sharpened focus in 2006 should cover any gaps in international humanitarian law in relation to the use of cluster munitions, and the need for greater reliability.

46. Mr. AVRAMCEV (The former Yugoslav Republic of Macedonia) endorsed the statement made on behalf of the European Union.

47. Ms. OVERVAD (Denmark) said that Denmark, as one of the original sponsors of what had become known as the 31-country proposal, fully supported the Coordinator's paper on mines other than anti-personnel mines, which was proof of the serious efforts made to accommodate many views and concerns. It contained important and central elements for a relevant international instrument. A basis had been laid for negotiations, which constituted the necessary next step.

48. Ms. POITEVIEN CABRAL (Venezuela) said that Venezuela had been one of the initiators of a plan to set up a zone of peace and cooperation in South America, as well as a proposal put forward by the member countries of the Rio Group for the establishment of a zone free of anti-personnel mines. In addition, the members of the Andean Community had

reaffirmed their commitment to a common policy for security and confidence-building, based on such principles as the upholding of the rule of law and democracy, the promotion and protection of human rights, the application of international humanitarian law, and so on.

49. Mr. ANTONOV (Russian Federation) said that a large amount of work on the problem of mines other than anti-personnel mines had now been completed. The issues of international humanitarian law, States' defence capabilities and the need for and technical feasibility of modernizing such mines were all intertwined. The technical aspects of the problem currently seemed insoluble, aside from the many outstanding social and political issues. Consensus had yet to be reached in the Group of Governmental Experts. Greater respect for the various opinions was the only basis on which a compromise could be reached. Given the current degree of mutual understanding and the divergence of views, it was premature to contemplate negotiations on a new instrument on the subject.

50. The Russian Federation was ready to continue to pursue the exchange of experience on the issue of explosive remnants of war, which should focus on a realistic approach to and analysis of all the aspects of munitions that had the potential to become explosive remnants of war. He welcomed the adoption of Protocol V, pointing out that experience with its implementation would have to precede efforts to improve it further. On the issue of compliance, the South African proposal remained the most realistic option. The Chairperson's paper contained many new interesting ideas and merited further analysis.

51. The Third Review Conference would be a pivotal event in the life of the Convention. It would be necessary to carefully analyse Convention implementation so far, and give consideration to all proposals. Without wishing to pre-empt the preparatory process, he suggested that work to further improve the implementation of the Convention should be based on the following principles: strict respect for the balance of humanitarian and military considerations; realistic decisions and their step-by-step implementation by all without exception; a focus on the most urgent humanitarian problems; and the need for consensus on all issues.

The meeting rose at 1 p.m.