

**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, 12 December 2002, at 3 p.m.

Chair: Mr. SOOD (India)

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GOVERNMENTAL EXPERTS AND GENERAL EXCHANGE OF VIEWS (continued)

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The meeting was called to order at 3.25 p.m.

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

1. Mr. MILAD (Observer for the Libyan Arab Jamahiriya) said that, while the Libyan Arab Jamahiriya had not yet acceded to the Convention on Conventional Weapons and its protocols, it seriously planned to do so, since it was fully aware of the great danger of mines, having itself been a victim of them: mines laid on Libyan territory during the Second World War had killed or injured thousands of people and posed an obstacle to the social and economic development of the areas where they had been laid.
2. That said, like other countries the Libyan Arab Jamahiriya believed that there was no need to develop new instruments under the Convention to address the problems of mines: instead the provisions of Amended Protocol II should be applied scrupulously and in full. To that end, his country reiterated its appeal to countries which had laid mines outside their own territory to accept responsibility for such mines and to make active efforts to remove them. Such countries should also undertake to compensate the victims of mines: in that context, he recalled the historic agreement struck between Italy and the Libyan Arab Jamahiriya in 1998 on a programme for the compensation of victims of mines laid by Italy in his country and expressed the hope that other States would follow that example.
3. Mr. CUMMINGS (United States of America) said that, at the outset of the third session of the Group of Governmental Experts, a number of representatives had doubted whether States parties would agree at the current meeting to the two mandates being negotiated, regarding explosive remnants of war and anti-vehicle mines. His delegation had stated the view that work under the Convention on explosive remnants of war would not be credible unless efforts were made in parallel to negotiate the issue of anti-vehicle mines, in particular non-detectable mines and self-destruction mechanisms.
4. Several States had been concerned about the effect which an anti-vehicle mines protocol might have on their security interests. The United States believed that the proposals which had been made would not compromise those interests. It was also anxious to avoid imposing any restrictions on weapons which were not militarily sound or had no real humanitarian benefit. Accordingly, it fully understood why several strong supporters of the Convention had indicated that they needed more time to address issues associated with anti-vehicle mines.
5. Notwithstanding the remaining differences at the opening of the third session of the Group of Governmental Experts, it had been possible to reach a reasonable compromise, which, while it fell far short of what the United States wanted, still constituted a good basis for work at both bilateral and multilateral levels on anti-vehicle mines. That work would eventually lead to reasonable restrictions, adopted by consensus, on the use of such mines.
6. With regard to the issue of explosive remnants of war, his delegation fully supported the draft mandate proposed by the Netherlands ambassador at the session of the Group of Governmental Experts, as well as the final document, which did not prejudice the outcome of the

negotiations, including whether or not a final instrument would be legally binding. The United States recognized the importance of the issue of victim assistance and believed that States parties should give consideration in 2003 to voluntary measures to be applied in that regard.

7. Like several other States parties, the United States attached importance to the amendment of the scope of application of article 1 of the Convention and congratulated those States which had already ratified the amendment, including Australia, Canada, Mexico, Sweden and the United Kingdom. The United States also thanked the International Committee of the Red Cross (ICRC) and non-governmental organizations for their contribution to the discussions by States parties.

8. Mr. WENSLEY (South Africa) said that his delegation had endeavoured, both during the preparatory process for the Second Review Conference of the Convention and at the Conference itself, to support certain proposals and to bring others forward with a view to ensuring that the Convention remained a relevant and progressive instrument of international humanitarian law. To that end, South Africa had put forward to States parties a proposal on compliance, comprising a mechanism which had its genesis in Amended Protocol II and which would apply to the Convention and its protocols as a whole. The idea was not entirely new for most States parties to the Convention, which had already declared their consent to be bound by Amended Protocol II. He thanked delegations which had expressed their support for the proposal and looked forward to further consultations on that issue during 2003.

9. Recalling that South Africa had certain difficulty in accepting the draft mandate presented to the Group of Governmental Experts by the coordinator on explosive remnants of war, he said that South Africa believed that no amount of actual clearance, risk education, warnings to civilian populations and information to facilitate clearance, important though such measures were, would ever be sufficient to ensure that innocent people did not fall victim to such explosive remnants of war. Accordingly, it had stressed the need for the issue of victim assistance to be addressed in the context of post-conflict remedial measures on explosive remnants of war, rather than through the best practices approach, which States would be free to follow or not and which would be simply too restrictive. Rather than confine the issue of victim assistance to the best practices in that area, it was South Africa's preference to avoid any specific reference to the issue in the draft mandate contained in the report of the Group of Governmental Experts, given its view that the issue of "assistance and cooperation", as mentioned in paragraph 1 (a) of the draft mandate, also included victim assistance. South Africa would raise that issue again when the Group of Governmental Experts resumed its work in 2003.

10. Still with regard to victim assistance, South Africa believed that any instrument to be adopted on the issue should be underpinned by the concept of cooperation and shared responsibility, and not by any obligation or responsibility borne by a party to the conflict. In that context, States parties could take inspiration from article 6 of the Ottawa Convention.

11. He expressed the hope that the Meeting of States parties would give the Group of Governmental Experts a clear mandate to negotiate an instrument on post-conflict remedial measures of a generic nature on explosive remnants of war.

12. Mr. CAMARA (Senegal) said that, given the drastic consequences which explosive remnants of war and anti-vehicle mines had on public health, the environment and the economy of the countries concerned, it was essential to strengthen the Convention's provisions by adopting new protocols specifically relevant to such remnants and mines. There was nothing to preclude the adoption of new arrangements if circumstances so dictated, since the Convention was always capable of being adapted and completed as the need arose. The outcome of the work of the Group of Governmental Experts was encouraging, since it would lead to the reopening of discussions on new instruments in which Senegal would play an active part.

13. Generally speaking, Senegal would support any initiative aimed at assisting countries affected by mines and the explosive remnants of war, as it had itself suffered from that problem, in particular in the south of the country since the 1980s. The Senegalese armed forces had undertaken to clear the area, but Senegal was still open to any offers of technical assistance to that end.

14. Ms. HEALY (Panama) said that her country firmly supported all efforts by the international community to mitigate the suffering caused by munitions and armed conflicts to combatants and civilian population. To that end, it had ratified all relevant instruments of international law, beginning with the Ottawa Convention, which banned anti-personnel mines, and also including the Convention on Conventional Weapons and its four protocols, which restricted the use of various types of munitions capable of causing as much injury as anti-personnel landmines and which struck the necessary balance between the security needs of countries and the humanitarian goals pursued by the international community.

15. Like many other countries, Panama was confronted by the problem of unexploded ordnance and the explosive remnants of war. Even though the Government had done everything possible, based on the information at its disposal, to mark out minefields and the location of explosive remnants of war and to warn populations of their presence, the authorities still lacked the resources to clear such affected areas, with serious consequences for the economy of such a small country. Only through international cooperation would Panama ever be able to rid its territory of unexploded mines and munitions.

16. Panama's case was unusual in that it went beyond the framework of the Convention on Conventional Weapons, since the unexploded ordnance and explosive remnants situated on its territory were the product, not of an armed conflict, but of an occupation - by the armed forces of the United States. Accordingly, the Panamanian Government supported the idea of amending the Convention on Conventional Weapons so as to oblige countries responsible for contaminating areas with such ordnance to provide economic and technical assistance for their clearance, regardless of the reasons for which they were laid in the first place.

17. Mr. FAESSLER (Switzerland), recalling the problems of small calibre weapons and ammunition, said that the growing humanitarian concerns caused by such weapons, as well as recent scientific advances in that domain, called for new and decisive international action which should be taken within the framework of the Convention on Conventional Weapons.

18. At the Second Review Conference of the State Parties to the Convention, the States parties had decided to invite experts from interested States to study the full range of issues related to small calibre weapons and ammunition and to report on their work. Expert consultations held in 2002 had demonstrated that it should be possible to identify common ground for future work. Switzerland remained convinced that the former ban on dum dum bullets should be revived, while accepting the need for further technical studies and consideration at the international level. Some countries had indicated their support for new informal discussions of a technical nature. For its part, Switzerland stood ready to support all efforts to achieve a better understanding of the problems posed by small calibre weapons and ammunition.

19. Mr. PARK (United States of America) said that he had attended the informal meeting of experts hosted by the Swiss Government in June 2002, which had been held to study the issue of military small-arms ammunition as it related to the Convention on Conventional Weapons. He pointed out that the experts had participated in their personal capacity and had not been authorized to speak or negotiate on behalf of their respective Governments, still less to adopt any formal document. In its summary of that meeting, the Swiss delegation had given a generally accurate identification of areas for possible future informal discussion should further meetings on the subject be convened. The Swiss delegation had correctly pointed out that legal studies were needed of new weapons and ammunition, having regard to the treaty obligations of each Government.

20. While the United States remained prepared to engage in informal discussions on military small-calibre ammunition, the informal meeting of experts had produced no information that would persuade his Government to reconsider its long-standing position that no basis had been offered for the development of a protocol to the Convention on that issue.

21. Mr. GALLI (Croatia) said that Croatia looked forward to the start of negotiations on an instrument on post-conflict remedial measures of a generic nature covering most types of explosive munitions, including abandoned munitions. In the view of Croatia, whose territory was still strewn with a great quantity of unexploded ordnance left over from recent conflicts, while the country had not yet entirely rid itself of even older ordnance dating from the Second World War, the provision of human resources and materials for mine-clearing operations should be an indisputable humanitarian obligation. It also believed that it was the primary responsibility of States which used such munitions to facilitate their clearance.

22. Croatia was ready to give further consideration to generic and voluntary preventive measures which States could take to improve the reliability of munitions, either through best practices relating to manufacturing, quality control, handling and storage or through assistance and cooperation. Where prevention was concerned, it believed that the existing principles of international humanitarian law sufficiently covered the issue of explosive remnants of war and that those rules should be fully applied.

23. Croatia was also ready to take part in the further exploration of the issue of mines other than anti-personnel mines, including the most appropriate ways of reducing the risks posed by their irresponsible use. At the same time, such mines did not present the same humanitarian

problem as anti-personnel mines, because they were not deployed in the same quantities, their size and material content made them easier to detect and they could be defused without detonation. Finally, Croatia believed that all issues relating to the use of anti-vehicle mines were adequately regulated by the existing restrictions in Amended Protocol II.

24. Ms. QUESNEY (Land Mine Action), also speaking on behalf of 32 other non-governmental organizations, conveyed their pleasure that consensus had been reached on opening negotiations for a new legally binding instrument on explosive remnants of war. The inclusion in the recommendation on the issue by the Group of Governmental Experts of such important issues as responsibility for clearance, information sharing, warnings to civilians and assistance and cooperation was a mark of progress. That said, civilian populations would be better protected if information and warnings were rapidly provided after the cessation of active hostilities. In addition, the States responsible for using the munitions which had become the explosive remnants of war should be obliged to clear affected areas, or to provide financial and technical assistance for that purpose. Amended Protocol II was a good starting point for the planned negotiations, but account should be taken of the specific circumstances related to explosive remnants of war. She urged States parties to develop a new protocol by their next meeting in 2003, and to ensure that the instrument covered non-international armed conflicts, as most current conflicts fell into that category.

25. The non-governmental organizations on whose behalf she was speaking did not understand why the explicit reference to victim assistance in the mandate had been blocked or why States parties had refused to negotiate a legally binding protocol on measures to restrict the use of certain weapons and weapons systems. States parties must urgently take up the conjoined issues of the targeting and use of certain weapons: the hostilities in Kosovo and Afghanistan had illustrated the need for new targeting restrictions, particularly when used near populated areas, and for further discussion on the use of certain weapons in given weather, terrain or operational conditions which rendered those weapons more likely to become explosive remnants of war. The States parties would take up those issues in 2003 through identifying best practices; they should also be encouraged to consider obligatory international standards.

26. Given the increasing availability of some munitions to States and non-State actors, she felt obliged to reiterate the appeal to States to place unilateral moratoriums on their use, production and transfer, until the adoption of other national or international measures, including a protocol.

27. In conclusion, she welcomed the political will demonstrated by some States and urged them, on behalf of those who daily fell victim to the explosive remnants of war, to develop in 2003 a new protocol on post-conflict remedial measures of a generic nature relating to explosive remnants of war.

28. Mr. HERBY (International Committee of the Red Cross) congratulated States parties on having reached agreement in the Group of Governmental Experts on a mandate on explosive remnants of war. By agreeing to begin negotiations on that issue, they were tackling one of the greatest threats to civilian populations, humanitarian workers and peacekeepers. When ICRC had first proposed the negotiation of such an instrument in September 2000, it had been

prompted by its awareness of the unnecessary and largely preventable suffering caused by such remnants and its knowledge that there were realistic measures that could be adopted to prevent and reduce such incidents. Many States parties had first hand experience of clearing explosive remnants of war, as had the United Nations Mine Action Service and certain non-governmental organizations. The measures which were to be included in the new protocol were therefore not new. They had been tried and tested in the field. All that was now necessary was to systematize them in a legally binding instrument. ICRC hoped that rapid progress would be made and that negotiations would bear fruit by the end of 2003.

29. ICRC was also looking forward to continuing discussion on the implementation of the rules of humanitarian law applicable to submunitions, an area where significant work remained to be done. It commended Sweden on the important efforts it had made in the area of best practices, welcomed the presentation by Australia and expressed its hope that States would provide information on the issue of targeting during armed conflicts.

30. ICRC believed not only that stress should be placed on post-conflict remedial measures of a generic nature, but that attention should also be given to preventive measures of a technical nature capable of reducing the impact of explosive remnants of war. It was therefore all the more urgent that negotiations and work on those issues should press ahead, as well as on the issue of anti-vehicle mines, since more explosive remnants were being produced every day by new conflicts and it would take years, if not decades, to clear them, placing an additional burden on an already strained international community.

31. Many States not yet party to the Convention were still affected by explosive remnants of war and anti-vehicle mines and had taken part in the work of the Group of Governmental Experts. Substantive results on those issues would facilitate universal adherence to the Convention and all its protocols. To promote such universal adherence, ICRC had published a booklet containing the full amended text of the Convention and its protocols. The English, French and Spanish versions had already come out, the Russian version was now available and the Arabic translation would be appearing shortly.

32. Mr. BRIGETY (Human Rights Watch) said that his organization was proud to have participated in the meetings of the Group of Governmental Experts in 2002 and appreciated the open and transparent manner in which those meetings had been conducted. The decision by States parties to pursue negotiations on an instrument to address post-conflict remedial measures of a generic nature was a source of encouragement. For such an instrument to be effective, it would have to be a legally binding protocol that included measures on information sharing, advance warning to civilians, clearance obligations and victim assistance. A truly humanitarian instrument must consider the victims and its negotiation should be concluded within one year.

33. While a protocol on generic remedial measures was important, it could not fully resolve the problem of explosive remnants of war unless it were accompanied by a legally binding protocol on technical preventive measures and measures relating to the targeting practices followed with certain types of munitions, notably submunitions.

34. Human Rights Watch recognized the significant humanitarian impact of anti-vehicle mines and also supported the adoption of a protocol on such mines. Such an instrument should include requirements for the detectability of all anti-vehicle mines, and for the fitting of self-destruction, self-activation or self-neutralization mechanisms to all remotely delivered mines. It should also address the issue of their transfer. In that context, Human Rights Watch welcomed further work on anti-vehicle mines with sensitive fuses, but also reminded States parties that all anti-vehicle mines that could be activated by the presence, proximity or contact of a person were anti-personnel mines and were therefore banned under the Ottawa Convention. It was the irresponsible use of anti-vehicle mines that caused the main humanitarian problems and States parties should therefore endeavour to find effective ways of reinforcing the existing laws.

35. Human Rights Watch was determined to continue playing a constructive role in addressing the humanitarian effects of certain weapons systems and in cooperating closely with States.

36. Ms. WALKER (International Campaign to Ban Land Mines) welcomed the agreement by the Group of Governmental Experts on a negotiating mandate relating to the explosive remnants of war and earnestly hoped that those negotiations would be concluded by December 2003. She regretted, however, that the mandate recommended by the Group was not broader, that preventive measures were not meaningfully addressed and that victim assistance was not a focus of its work.

37. The International Campaign to Ban Landmines continued to support calls for a moratorium on the use, production and transfer of submunitions, which should remain in force until the humanitarian concerns posed by such munitions could be effectively addressed. It also recognized the importance of work on anti-vehicle mines with sensitive fuses, work which it fully supported. It reminded States parties, however, that, since those mines had the same effect as anti-personnel mines, they were already banned under the Ottawa Convention, the full implementation of which remained, in its view, a central priority.

38. The Campaign and its member organizations stood ready to provide their technical expertise and the benefit of their field-based experience to States in an informal partnership which could be both constructive and truly effective.

The meeting rose at 4.35 p.m.