

Geneva, 7-17 November 2006

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 November, at 10.20 a.m.

President: Mr. RIVASSEAU (France)

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

GENERAL EXCHANGE OF VIEWS (agenda item 11) (continued)

1. Mr. TREZZA (Italy) said that his country fully subscribed to the statement made by the Finnish delegation on behalf of the European Union. He pointed out that the States parties to the Convention had been able, after 23 years' work, to consensually adopt several instruments aimed at preventing or at least alleviating the unnecessary suffering of both the civilian population and military personnel during and after hostilities. Those results had been achieved through constant efforts pursued at different levels - at the Review Conferences, at the meetings of the States parties or in the framework of groups of military and other experts. That process, which was an example of effective multilateralism, had enabled the States parties to understand one another's priorities and concerns better, to clarify issues related to the interpretation and implementation of the Convention and the Protocols annexed thereto, and to establish a direct and constructive dialogue with civil society.

2. He expressed the hope that the States parties to the Convention would be able to adopt a new instrument regulating the use of mines other than anti-personnel mines, which were deadly devices. As for the question of explosive remnants of war, which covered mines and munitions, including submunitions, and therefore cluster munitions, he indicated that his Government, which was on the point of ratifying Protocol V, considered that the international community should continue to study the effects of cluster munitions before regulating their use with the aim of eliminating the collateral effects on the civilian population. He considered that the implementation of the Convention and the Protocols as well as compliance with their provisions should be continuously monitored in relation to the changing international environment, which in his view implied not the establishment of an ad hoc organization, but simply the continuation and broadening of the deliberations of the States parties through the periodic convening of meetings and review conferences. In that spirit, the Italian delegation supported the proposal made by the States parties which were members of the European Union that, as a minimum, the mandate of the Working Group on Explosive Remnants of War should be extended into 2007.

3. Mr. NASH (Cluster Munition Coalition) pointed out that the presence, at the Third Conference to review the Convention, of a large number of members of the Coalition who had come from countries affected by the problem of cluster munitions attested to the determination of civil society to ensure that an effective solution was found to the urgent problems posed by those munitions. As for governments, they could not ignore the suffering which cluster munitions caused every day in various countries throughout the world, suffering which had been documented for some 40 years and which would necessarily continue as those weapons proliferated. Several of them had reacted: Belgium had banned such weapons, Norway had adopted a permanent moratorium in relation to them and Austria, the Holy See, Ireland, Mexico, New Zealand and Sweden had committed themselves to holding international negotiations on the subject. The non-governmental organizations which were members of the Coalition commended all the States which had voiced a clear commitment to the drafting of a new instrument aimed at averting the humanitarian consequences of cluster munitions and urged all countries to work for the development of new rules governing the use of such munitions, in particular by providing

support for the draft mandate for the negotiation of an instrument, as proposed for adoption at the Third Review Conference. What was important was that there should be a new instrument of international law which would make a difference on the ground, whatever the forum in which negotiations took place.

4. Ms. AWAN (Cluster Munition Coalition) said that her country, Lebanon, had not yet recovered from the effects of the fighting which had taken place on its territory in July-August 2006, and that many years would probably be needed to resolve the problems caused by the spreading of over 1 million cluster munitions over farmland and in villages, homes and public places, not to mention the roads. What could be the military value of devices which did not explode on impact but continued to produce victims, essentially innocent civilians, long after the cessation of hostilities? She urged all decision makers to seriously look into an international instrument that would put an end to the humanitarian problems resulting from the use of cluster munitions, whose harmful effects had been amply demonstrated.

5. Mr. ALIZADA (Cluster Munition Coalition), himself the victim of the detonation of an anti-personnel mine at the age of 12, said that he worked with victims of cluster munitions in his country, Afghanistan, where he had witnessed the effects of those munitions, which were as devastating as those of anti-personnel landmines. If the latter had been banned by 151 countries to date, what about cluster munitions? How much longer would those unreliable and inaccurate munitions continue to kill innocent civilians and prevent people from engaging in their economic activities or stop children from attending school? The only way to end such suffering was to adopt a new legal instrument on cluster munitions.

6. Mr. BRABANT (Handicap International) drew the delegations' attention to a preliminary report prepared by his organization which analysed the humanitarian impact of cluster munitions throughout the world. Distribution of the report had begun the previous week in 10 cities, as well as in the Palais des Nations, and would continue in the coming months. He invited them to participate in the presentation of the report that same day and to provide Handicap International with their comments and any other information they considered useful. He pointed out that the study was the first to systematically analyse the impact of cluster weapons on civilian populations in the 24 countries and territories affected by those weapons, an impact which had been determined using data on the victims of such weapons, such as a 16-year-old inhabitant of Kosovo who had survived the sudden explosion of a submunition which had killed three members of his family, who had dropped out of school and was now living with one of his sisters and his mother on a shared family income of some 60 euros a month. The report, which showed that 98 per cent of the known victims of cluster weapons were civilians, highlighted the contrast between the inability of States to progress towards a ban on cluster weapons and the increasingly urgent appeals from the affected communities, which Handicap International was passing on. The petition launched by Handicap International for that purpose had already been signed by over 312,000 people throughout the world, clearly showing that public opinion was no longer satisfied by sterile discussions. It was high time to take action: refusing to negotiate a new instrument banning cluster weapons would be not only immoral, but would also amount to ignoring the suffering and the disastrous socio-economic impact of the use of such weapons on civilian populations.

7. Mr. CONWAY (Landmine Action) pointed out that the right of armed forces to choose their means and methods of warfare was not unlimited and that it was up to governments to put

limits on the use of weapons which, while lacking any major military utility, killed those they were in fact supposed to protect. The many recent conflicts had demonstrated that cluster munitions fell into that very category. In Kosovo, the British armed forces had dropped bombs containing 78,000 submunitions, which, according to General Sir Hugh Beech, had destroyed only some 30 major military targets. The United Kingdom had subsequently spent 50 million pounds on humanitarian demining in the country. A study prepared in Lebanon showed that 60 per cent of Israeli strikes using cluster munitions had occurred within 500 metres of the centre of a built-up area. That was neither an error in calculation nor an aberration, but simply the most recent example of the systematic use of such weapons in or near residential areas, as documented in fighting in Afghanistan, Chechnya and Iraq: the British armed forces had launched 98,000 submunitions in and around Basra in March 2003, causing civilian casualties at the time of the attacks and subsequently. It could be concluded that, whatever their short-term military utility, such weapons had an excessive humanitarian cost. According to General Sir Rupert Smith, former commander of the NATO allied forces, military success achieved by bombing civilian targets and causing the loss of many civilian lives was more likely to receive public condemnation than to enhance the political capital of the countries responsible for the bombing.

8. The use of cluster munitions demeaned those who used them and nullified their claim to be legitimate and responsible agents of armed violence. It was clear that the use of such weapons was incompatible with States' obligation to protect. In such circumstances, in dealing with cluster munitions, urgent action was needed to prevent needless suffering from being inflicted on civilians, to make armed conflicts compatible with the public conscience and to ensure that post-conflict rebuilding and rehabilitation could go forward without being hindered by the deadly danger of such munitions. It was vital that States should draw up without delay an international instrument banning the use, production, transfer and stockpiling of cluster munitions.

9. Mr. HANNON (Mines Action Canada) said that the non-governmental organizations making up the coalition Mines Action Canada, which engaged in field activities involving mine clearance, education concerning the risks posed by unexploded mines and munitions, humanitarian aid and sustainable development, had participated in the work of the Group of Governmental Experts and the first two Review Conferences in order to ensure that States struck a proper balance between their national defence needs and respect for fundamental and civil rights. However, they had observed, in the case of mines other than anti-personnel mines and explosive remnants of war, that that balance between defence interests and the rights of civilians was not sufficient.

10. The Ottawa Convention banned mines other than anti-personnel mines which were equipped with sensitive fuses or anti-handling devices, but other features of such mines meant that a new legally binding protocol was needed to address the problems they caused. Concerning explosive remnants of war, Mines Action Canada, while welcoming the forthcoming entry into force of Protocol V, which specified generic measures to be adopted following conflicts, considered that such remedial measures should be complemented by preventive measures so as to deal with the humanitarian problems posed by such remnants, particularly remnants of cluster munitions. The many international studies, monographs and field evaluations and testimony from survivors, doctors and deminers highlighted the foreseeable suffering and damage caused by explosive submunitions which were inaccurate and unreliable, endangered the civilian

population in too many countries, and, when they failed to explode, obstructed sustainable development by condemning tens of thousands of people to poverty. In addition, it had recently been confirmed that non-State armed groups had begun to use cluster munitions. All those facts argued in favour of the drawing up of a legally binding international instrument which would effectively address the use, production and transfer of, trade in and stockpiling of cluster munitions by means of targeted preventive measures. As far as civil society was concerned, such an instrument should have been negotiated and adopted long ago.

11. Mr. GOOSE (Human Rights Watch) pointed out that the non-governmental organizations had eloquently described the terrible humanitarian and socio-economic impact that cluster munitions had had around the world as a result of their use in a way which was inconsistent with international humanitarian law, causing unnecessary and unacceptable suffering to civilian populations. Such damage had been caused by several million submunitions throughout the world, while billions remained in the arsenals of more than 70 nations. What was more, submunitions were already in the hands of non-State armed groups, such as Hizbullah, which had recently used them in Israel. It was clear that that humanitarian crisis in waiting must be urgently addressed.

12. There were many steps that could be taken at the national, regional and international levels. In the framework of work relating to the Convention, States should support the proposal for the setting up of a body entrusted with the task of conducting negotiations on cluster munitions. The adoption of the proposal for the holding of mere discussions based on a limited mandate would deprive them of their ability to tackle a looming disaster, or even condemn their efforts to failure. In the absence of agreement on a negotiating mandate on cluster munitions, interested States parties should perhaps seek to draw up a new international instrument in a different framework, so as to expedite the success of the negotiations. That would simply amount to recognition that what mattered was the objective of the Convention, which was to protect civilians from the consequences of war and the use of certain weapons. In the opinion of Human Rights Watch, it was of little importance to know in advance whether it was necessary to ban cluster munitions, freeze or restrict their use, in areas with high concentrations of civilians or elsewhere, or ban only the use of cluster munitions with a high failure rate or those which were known to be unreliable and inaccurate. All those issues could be addressed during the preparations for the negotiations and the negotiations themselves. What was important was to have an effective international instrument which banned all cluster munitions and called for their destruction, unless governments could demonstrate that there were cluster munitions that were reliable and accurate and could be used without presenting unacceptable dangers to civilians during or after attacks.

13. He expressed support for the Irish and Swedish proposal for a preambular paragraph of the final declaration acknowledging that the foreseeable long-term effects of explosive remnants of war on civilian populations were an important factor to be considered in proportionality assessment, as well as the German and Swedish proposal for the conduct of a new study of laser systems in the light of technological developments since 1995.

14. Mr. SOUFAN (Observer for Lebanon) urged the States parties to the Convention to support first and foremost the drafting of new legally binding instruments and, in particular, a protocol which would ban the use of cluster munitions and aim to eliminate their risks for humans. Taking the example of his country, which had recently been the scene of Israeli

aggression, he indicated that the Israeli attacks had wiped out the benefits of 15 years of development and destroyed much vital civilian infrastructure in the south of the country, leaving over 1.2 million unexploded submunitions in 774 strike locations, adding to the 400,000 landmines and booby-traps which endangered over 150 communities. He noted that, when deliberately used in areas where civilians were concentrated, because combatants were hiding there, cluster munitions caused direct damage to civilian assets and loss of innocent lives. It was certainly difficult to strike only military targets using cluster munitions. In addition, as many of them did not immediately explode, submunitions often became “silent killers” that could kill or maim humans well after the cessation of hostilities, particularly if they had been launched against villages and civilian assets, as in south Lebanon. In support of his assertions he cited several sources of information - a journalist from the Reuters press agency, several senior United Nations officials, a representative of Human Rights Watch and a publication from that non-governmental organization, as well as an article published in the Israeli newspaper Haaretz, citing the criticisms addressed by the head of a rocket unit to the military authorities who had decided to cover entire towns with cluster munitions - confirming, in his view, that Israel, using the pretext of combating terrorism, had deliberately used cluster munitions on a massive scale against populated areas in south Lebanon in 2006. He questioned the Israeli representative’s reference to the restraint which the armed forces must show in order to lessen the suffering inflicted on human beings as they strived to defend the nationals of their country. He considered that the arguments put forward by the Israeli authorities to justify their attacks using cluster munitions against south Lebanon were unconvincing and lacking in proper foundation.

15. Welcoming the forthcoming entry into force of Protocol V on explosive remnants of war, he assured the Conference that his country would spare no effort to consider becoming a party to the Convention on Certain Conventional Weapons as well as the Ottawa Convention.

16. The PRESIDENT, referring to the essentially humanitarian aims of the Convention on Certain Conventional Weapons, and hence of the Conferences held to review the Convention, called on the participants not to use the Third Conference as a political forum and not to exercise their right of reply.

17. Mr. ITZCHAKI (Israel), noting the assertions made by the observer from Lebanon, said that his delegation would refrain from exercising its right of reply in order not to further contaminate the positive spirit in the Conference. His delegation would content itself with looking forward to the day when more of Israel’s neighbours in the Middle East would become parties to the Convention and the Protocols annexed thereto and in particular take on the obligations set out in article 8, paragraph 1 (b), of amended Protocol II on the transfer of mines, booby-traps and other devices, including cluster munitions, to non-State actors.

The meeting rose at 11. 25 a.m.