

Meeting of the High Contracting 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 9th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 13 November 2007, at 10 a.m.

Chairperson: Mr. Verros..... (Greece)

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The meeting was called to order at 10.45 a.m.

Mines other than anti-personnel mines (agenda item 11) (*continued*)

1. **Mr. da Rocha Paranhos** (Brazil), speaking as Friend of the Chair, recalled that during the consultations held the previous day on mines other than anti-personnel mines, it had been proposed that the relevant draft decision should follow the wording used in the decision adopted in 2007. Nevertheless, in order to meet the concerns expressed by one delegation, it had been considered necessary to continue the consultations. Thus, the proposed text, which he had read out, did not make any reference to the time frame for consideration of the matter. It was to be hoped that the text could be adopted by consensus during the morning.
2. **The Chairperson** said he would take it that the High Contracting Parties wished to adopt *ad referendum* the draft decision on mines other than anti-personnel mines before them.
3. *It was so decided.*

The meeting was suspended at 10.50 a.m. and resumed at 11.40 a.m.

Consideration of the report of the work of the Group of Governmental Experts on the application and implementation of existing international humanitarian law to specific munitions that may cause explosive remnants of war, with particular focus on cluster munitions, including the factors affecting their reliability and their technical and design characteristics, with a view to minimizing the humanitarian impact of the use of these munitions (agenda item 10) (*continued*)

4. **The Chairperson** said that the draft decision on cluster munitions before the Meeting was the result of intensive negotiations that had begun the previous day. He thanked all the delegations that had participated in the consultations for the considerable effort they had sometimes had to make in order to achieve a compromise text.
5. **Mr. MacBride** (Canada), while commending the Chairperson on his efforts to prepare a draft mandate on the humanitarian impact of cluster munitions, expressed regret that the text under consideration was less clear than that proposed by the European Union, which had provided for the negotiation of a legally binding instrument to address the humanitarian concerns posed by cluster munitions in all their aspects.
6. Canada considered that the wording of the draft decision could give rise to different interpretations as to the objective to be attained, which, in his view, should be the adoption of a new protocol, as legally binding as the five previous protocols. He stressed the fact that holding a meeting of the Group of Governmental Experts in 2008 was not enough to ensure prompt action on the issue of the humanitarian costs of cluster munitions and the adoption of relevant decisions.
7. Furthermore, he considered that the proposed meeting schedule was heavy, but probably necessary, so long as it allowed for the activities planned under the complementary Oslo process to go ahead. While he understood that it was impossible to set an exact date for the completion of the negotiations, the matter in question was particularly urgent, and he therefore hoped that the Group of Governmental Experts would make considerable progress in its work in the run-up to the Meeting of the High Contracting Parties in November 2008 and would focus on those weapons that inflicted unacceptable suffering on civilian populations contrary to the principles of international humanitarian law, with a view to the drafting of a comprehensive and credible legally binding instrument.
8. In conclusion, he said that Canada was prepared to participate fully in any negotiation process aimed at drafting a protocol that would address effectively the suffering

caused by cluster munitions to civilian populations in both the humanitarian and development spheres.

9. **Mr. Paulsen** (Norway) noted the increased interest in a mandate on cluster munitions, the related draft decision and the determination of the United Nations, the International Committee of the Red Cross (ICRC) and various States and humanitarian organizations to resolve, as a matter of urgency, the humanitarian problem posed by those weapons. He recalled that the Secretary-General of the United Nations had on several occasions invited Member States to address without delay the question of the horrendous humanitarian, human rights and development effects of cluster munitions by concluding a legally binding instrument.

10. Norway, like other States and organizations, was firmly committed to drafting by the end of 2008 a legally binding international instrument prohibiting cluster munitions that caused unacceptable harm to civilians; it would continue to support and participate in all processes aimed at dealing effectively with the concerns raised by cluster munitions, in the hope of averting a grave humanitarian crisis.

11. In response to comments by several delegations concerning the effectiveness and relevance of the Convention, he said that the operation of the Convention might of course be improved on, but it was important not to lose sight of the fact that the instrument already prohibited several categories of “inhumane” weapons.

12. **Mr. Streuli** (Switzerland) said that, as Switzerland had already stated, the best way to mitigate the unacceptable humanitarian effects of the use of cluster munitions was to establish a working group to negotiate a legally binding instrument on the subject. Switzerland had hoped that a comprehensive, balanced and ambitious negotiating mandate — in terms of both its content and the proposed time frame — would be adopted at the current meeting. It considered that the mandate should have included a clear commitment to achieving a legally binding instrument prohibiting the use, production, stockpiling and transfer of cluster munitions that caused unacceptable humanitarian harm, while taking into account the humanitarian and military interests of States. The proposed text did not live up to those expectations. However, conscious of the lengthy and difficult consultations held to draft the text, Switzerland was nonetheless in favour of adopting the current negotiating mandate and was hopeful that the work would be carried out in a credible manner by the group of experts established for that purpose, with a view to achieving a new legally binding instrument on cluster munitions that caused serious humanitarian problems.

13. **Mr. Antonov** (Russian Federation) said that the adoption of a new mandate for the Group of Governmental Experts was a new phase in the work on cluster munitions. The Russian Federation was, however, sceptical about the outcome of the work. The basis for negotiation was very limited, since the approaches of the High Contracting Parties differed considerably. The Chairperson was to be commended on the professionalism with which he had been able to find compromise on such a delicate issue. The very definition of cluster munitions was a source of disagreement, which jeopardized the chances of compromise. In any event, the negotiations in the Group of Governmental Experts should lead to proposals that served the interests of all States. The Russian Federation would support such proposals on three conditions: the measures envisaged should not weaken national defence; they should not have adverse economic or financial consequences; and their intent should not be to limit the technical effects of cluster munitions, but to regulate their use and their impact on civilians. Any technical proposal must take the form of a simple recommendation and allow for an adequate transition period. The Russian Federation wished to stress the need for a serious and realistic approach to be adopted to the issue, while maintaining a balance between defence and humanitarian interests.

14. **Mr. Tarui** (Japan) said that a more specific text would have been preferable, since the international community, and in particular civil society, was following the work of the High Contracting Parties closely. His delegation nonetheless welcomed the fact that the Parties had been able to overcome their differences in order to achieve consensus. That was a sign of progress. The Group of Governmental Experts must now pursue its negotiations with a view to reaching an international agreement swiftly, in order to demonstrate that the Convention was able to respond effectively to serious humanitarian problems while taking account of security considerations. All States must prepare seriously for the first meeting of the Group of Governmental Experts. Japan would spare no effort in that connection.

15. **Ms. Üğüdü** (Turkey) welcomed the efforts undertaken to reach a consensus that would enhance the credibility of the Convention, and assured the Group of Governmental Experts that Turkey would continue to contribute to its work.

16. **Ms. Gómez Oliver** (Mexico) congratulated the Chairperson and Ambassador Kärkliņš for their intensive efforts to achieve a rapprochement of views among the High Contracting Parties concerning the need to take prompt action on the effects of the use of cluster munitions, not only for the sake of civilians, but also in the interests of human rights and development. Regrettably, the mandate just adopted hardly lived up to the expectations of Mexico, which had wanted effective measures to be adopted, as a matter of urgency, in order to prevent more innocent people from being killed by such weapons. Mexico rejected the military and strategic considerations based on the use of the weapons. For that reason, it would pursue its efforts towards the conclusion before the end of 2008 of a legally binding instrument that guaranteed civilians a high level of protection and strictly prohibited the use, production, purchase, stockpiling and transfer of cluster munitions. Mexico would also campaign for an instrument that comprised, among other things, obligations concerning cooperation, victim assistance measures, strict provisions relating to stock handling and the destruction of unexploded ordnance, and an effective follow-up mechanism. Mexico called on all High Contracting Parties to assume their responsibilities and to pool their efforts to end the unacceptable humanitarian and socio-economic harm caused by the weapons.

17. **Mr. Peláez-Ministro** (Argentina) said that delegations had shown flexibility in reaching consensus. His delegation would have preferred the adoption of a more comprehensive mandate, but the decision was nonetheless a first step towards the elaboration of an instrument on the use of cluster munitions. It also showed that the Meeting of the High Contracting Parties to the Convention was still a privileged forum for dealing with such matters. His delegation would continue to participate actively in the work of the Group of Governmental Experts.

18. **Mr. Pereira Gomes** (Portugal), speaking on behalf of the European Union, said that the decision just taken did not reflect the European Union proposal, which recommended negotiating by the end of 2008 a legally binding instrument on all aspects of the humanitarian consequences of the use of cluster munitions. The European Union had chosen to go along with the consensus all the same but would continue to promote its proposal within the framework of the Group of Governmental Experts.

19. **Mr. Duncan** (United Kingdom) endorsed the comments made by the representative of Portugal. He recalled that some of the Parties to the Convention were major users and manufacturers of cluster munitions. It was encouraging that in one week they had reached broad consensus on the need to take serious action on a complex issue that had given rise to lengthy debates in previous years. His Government was in favour of banning cluster munitions, which caused unacceptable harm to civilians, and he therefore regretted that the mandate adopted was not more specific. He noted, however, the willingness to try to resolve the problems within the framework of the Convention, which had been drafted precisely for that purpose. Like the Russian Federation, the United Kingdom considered

that the High Contracting Parties must focus on a broader range of both technical and political issues in order to dispel all remaining doubts.

20. **Mr. Herby** (International Committee of the Red Cross) welcomed the fact that an increasing number of High Contracting Parties to the Convention were determined to respond to problems relating to cluster munitions. However, he regretted that the mandate adopted did not demonstrate a collective commitment to the adoption of a legally binding instrument prohibiting those weapons. He also regretted that no time frame reflecting the urgency of the problem had been set for the negotiations. That lack of clarity risked jeopardizing the effectiveness of the process. ICRC would continue to promote the adoption of a new instrument of international humanitarian law that would afford civilians the strongest possible protection against the effects of cluster munitions. In the meantime, the humanitarian problem caused by the weapons, which were both inaccurate and unreliable, risked becoming much worse. ICRC reiterated its call to all States to stop using such weapons on their territories immediately, not to transfer them and to destroy their existing stocks.

21. **Mr. Goose** (Human Rights Watch) said that the mandate adopted could not be more vague. Admittedly, the term “negotiate” appeared in the mandate, but the contradictory comments by delegations showed that no one knew what the negotiations would be about. Clearly, they were not about drafting a legally binding instrument or introducing a ban of any sort. The difficulty that the High Contracting Parties had had in reaching agreement on the watered down mandate did not augur well for the ensuing negotiations. Furthermore, the mandate did not set any precise time frame or convey any sense of urgency. Any State that wished to conclude an effective agreement on cluster munitions must pursue the process initiated at the Oslo Conference, so that an instrument prohibiting such weapons would be signed in 2008. It was the only credible solution to the humanitarian threat they represented.

The meeting rose at 12.20 p.m.