
**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 1st meeting

Held at the Palais des Nations, Geneva, on Thursday, 25 November 2010, at 10 a.m.

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

Chairperson: Mr. Ganev(Bulgaria)

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

Opening of the Meeting

1. **The Temporary Chairperson**, acting on behalf of the Secretary-General of the United Nations, Depository 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 and the Protocols thereto, declared open the 2010 Meeting of the High Contracting Parties to the Convention.

Confirmation of the nomination of the Chairperson of the Meeting

2. **The Temporary Chairperson** recalled that, at the 2009 Meeting of the High Contracting Parties, Ambassador Gancho Ganev of Bulgaria had been nominated as Chairperson-designate of the 2010 Meeting (CCW/MSP/2009/5, para. 44). If there was no objection, he would take it that the Meeting wished to confirm Ambassador Ganev in the office of Chairperson.

3. *It was so decided.*

4. *Mr. Ganev (Bulgaria) took the Chair.*

Adoption of the agenda (CCW/MSP/2010/1)

5. **The Chairperson** recalled that the 2009 Meeting of the High Contracting Parties had approved a provisional agenda for the 2010 Meeting, which had been issued as document CCW/MSP/2010/1. He took it that the Meeting wished to adopt the provisional agenda.

6. *It was so decided.*

Confirmation of the rules of procedure (CCW/CONF/III/11)

7. **The Chairperson** recalled that the Third Review Conference of the High Contracting Parties to the Convention had adopted its own rules of procedure, which had been practically identical to those of the Second Review Conference and to the rules of procedure applied at the Meetings of the High Contracting Parties held between 2002 and 2009. Some rules would, however, not apply to the current Meeting in view of its brevity. He suggested that, in accordance with established practice, the Meeting should show good judgement and a spirit of cooperation in interpreting the rules of procedure rather than attempt to amend them. On that understanding, he would take it that the Meeting wished to confirm the rules of procedure adopted by the Third Review Conference and to apply them *mutatis mutandis* to its own work.

8. *It was so decided.*

Confirmation of the nomination of the Secretary-General of the Meeting

9. **The Chairperson**, referring to rule 14 of the rules of procedure, said that, in accordance with established practice, the Secretary-General of the United Nations had nominated Mr. Bantan Nugroho of the Geneva Branch of the Office for Disarmament Affairs to serve as Secretary-General of the Meeting. He took it that the Meeting wished to appoint Mr. Nugroho to that office.

10. *It was so decided.*

Organization of work, including that of any subsidiary body of the Meeting
(CCW/MSP/2010/2)

Election of other officers of the Meeting

11. **The Chairperson** said that he did not consider it necessary to establish subsidiary bodies or to elect a Bureau pursuant to rule 10 of the rules of procedure. Instead, he suggested that, if necessary, he would work in consultation with the Presidents of the Twelfth Annual Conference of the High Contracting Parties to Amended Protocol II and the Fourth Conference of the High Contracting Parties to Protocol V, the Chairperson of the Group of Governmental Experts and the coordinators of the regional groups.

12. Turning to the provisional programme of work (CCW/MSP/2010/2), he provided a brief overview of the agenda items and how he intended to deal with them. He suggested that the Meeting should first hear an oral report by the Chairperson of the Group of Governmental Experts, so that delegations wishing to do so could comment on the Group's work under the general exchange of views. The Meeting would then take up the remaining substantive items. The programme of work was flexible and could be adapted to address any concerns that arose. On that understanding, he would take it that the Meeting wished to approve the proposed organization of work.

13. *It was so decided.*

Message from the Secretary-General of the United Nations

14. **Mr. Sareva** (Deputy Secretary-General of the Conference on Disarmament and Director of the Geneva Branch of the Office for Disarmament Affairs) read out a message from the Secretary-General of the United Nations.

15. In his message, the Secretary-General said that the Convention was an integral part of international humanitarian law and of the global disarmament and arms control machinery. It had been designed to provide a framework within which humanitarian concerns relating to conventional weapons could be addressed, and indeed, it continued to serve that vital purpose. He commended the Parties for their efforts to ensure that civilians were protected from the terrible effects of hostilities.

16. The Secretary-General welcomed the in-depth discussion on the protection of civilians in armed conflict held earlier that week by the Security Council, which had expressed its concern about the humanitarian impact of conflict and called on parties to armed conflict to give protection to the civilian population in accordance with applicable international humanitarian law.

17. Two years previously, the Parties to the Convention had decided to address the horrendous impact of cluster munitions on humanitarian efforts. The Secretary-General encouraged them, in pursuing that work, to continue to be guided by the basic humanitarian principles that were the very foundation of the Convention. That would strengthen the Convention's potential to address the humanitarian plight of all victims of cluster munitions and armed conflicts. Major results had been achieved under the Convention since its adoption 30 years earlier. He looked forward to more advances in the years ahead and wished the Meeting every success.

Consideration of the report of the Group of Governmental Experts

18. **Mr. Domingo** (Chairperson of the Group of Governmental Experts), reporting orally on the work of the Group, recalled that the 2009 Meeting of the High Contracting Parties had instructed the Group of Governmental Experts to continue its negotiations to address urgently the humanitarian impact of cluster munitions, while striking a balance

between military and humanitarian considerations, on the basis of the consolidated text of 26 August 2009 submitted by the Chairperson of the Group and taking into account document CCW/GGE/2009-II/2 and other proposals by delegations. The Group had held formal meetings from 12 to 16 April and from 30 August to 3 September 2010; in addition, he had convened informal consultations in June 2010 and held bilateral and other consultations throughout the year. The Group had been assisted in its work by experts on issues relevant to the negotiations, including the Chairperson of the Meetings of the Military and Technical Experts, and the Friends of the Chairperson of the Group.

19. As Chairperson, he had consistently applied a formula of teamwork, transparency and time management and had striven to ensure the active participation of all delegations. He had circulated three versions of a draft protocol on cluster munitions, the latest of which was contained in document CCW/GGE/2010-II/WP.2. That document reflected his estimate of the current state of the negotiations and had been submitted at his own initiative for consideration and further action by the High Contracting Parties. Although significant progress had been made, there remained a few key issues that must be resolved before the negotiations could be brought to a successful conclusion. He was grateful to all delegations for their constructive participation in the work.

General exchange of views

20. **Mr. Spence** (Council of the European Union), speaking on behalf of the European Union, the candidate countries Croatia, Iceland and the former Yugoslav Republic of Macedonia; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Armenia, Georgia and the Republic of Moldova, said that there had been a number of positive developments in the field of disarmament and non-proliferation in the past year. While some developments, such as the arms trade treaty process and the entry into force of the Convention on Cluster Munitions had occurred outside the CCW framework, the European Union remained firmly committed to preserving and developing the Convention on Certain Conventional Weapons, which constituted an essential part of international humanitarian law and provided a unique forum for discussion.

21. He commended the Secretary-General of the United Nations, as Depositary of the Convention and its Protocols, and the presiding officers of the related conferences and meetings for their efforts to achieve the goal of universality and pledged the European Union's continued support for the related plan of action. He welcomed the new Parties to the Convention and its Protocols and called on all States that had not yet done so to ratify or accede to the instruments.

22. The Sponsorship Programme, which also played a part in promoting the Convention and its Protocols, had received considerable funding from the European Union and several of its member States; other States should contribute also. The European Union expected the Fourth Review Conference of the High Contracting Parties to the Convention to assess the basic operational modalities and overall implementation of the Programme, in order to enhance its effectiveness.

23. Stressing the importance of compliance with the provisions of the Convention and its Protocols by all Parties, he expressed satisfaction at the steps already undertaken and reminded the Parties of their commitment to submit national compliance reports on an annual basis.

24. The European Union remained firmly committed to responding to the humanitarian problems caused by cluster munitions, by providing practical assistance to the victims of such weapons. It welcomed the recent entry into force of the Convention on Cluster Munitions and the growing number of ratifications and commended the Lao People's

Democratic Republic for hosting the First Meeting of States Parties in November 2010. Since some States were not yet in a position to become parties to the Convention on Cluster Munitions, the European Union remained convinced that concluding within the CCW framework a legally binding agreement that took account of both humanitarian and military aspects could make a significant difference. However, such an instrument must be complementary to and compatible with the Convention on Cluster Munitions. It should also include provisions on cooperation and assistance and impose an immediate prohibition on the use, production and transfer of cluster munitions.

25. Agreement still needed to be reached on a number of important issues, such as a definition of cluster munitions, the scope of the future prohibitions and restrictions, the transition period, and obligations concerning stockpiling, storage and destruction and transfers of cluster munitions, which would require all delegations to remain flexible.

26. He expressed appreciation for the work done by the Group of Governmental Experts on cluster munitions in 2010. The Meeting should agree on a renewed mandate for the Group, *inter alia*, to negotiate a protocol on cluster munitions along the lines he had suggested. He welcomed the decision taken at the 2009 Meeting of the High Contracting Parties to establish an Implementation Support Unit for the Convention on Certain Conventional Weapons; the strengthening of the Geneva Branch of the Office for Disarmament Affairs had already paid dividends.

27. Lastly, the European Union was ready to contribute to the consultations on preparations for the Fourth Review Conference of the High Contracting Parties to the Convention and to the success of the Review Conference in 2011.

28. **Mr. Gómez Camacho** (Mexico) said that his Government attached considerable importance to the Convention. It therefore regretted that it had not been possible to draw up within the CCW framework a legally binding instrument to deal with the humanitarian impact of cluster munitions. Since the adoption of the mandate of the Group of Governmental Experts to address cluster munitions, his delegation had voiced concern that, in efforts to balance military and humanitarian interests, priority would be given to the former. It was difficult to argue in favour of continuing to invest time and financial resources in what had already turned out to be lengthy and fruitless negotiations, especially when there had apparently been no change in positions. The High Contracting Parties should reflect on their needs and the real possibilities of reaching an agreement before extending the Group's mandate, and they needed to decide whether the matter should take up as much time as in previous years.

29. The entry into force of the Convention on Cluster Munitions on 1 August 2010 was a source of pride and satisfaction to Mexico. The instrument already had 109 signatories and 46 States parties, which was a landmark achievement in the history of multilateral disarmament negotiations. The Vientiane Declaration and the Vientiane Action Plan, adopted at the First Meeting of States Parties to the Convention on Cluster Munitions, constituted a road map for bringing about immediate improvements in the countries and populations affected by those weapons, as well as for containing the rise in the number of victims. The High Contracting Parties that had not already done so should therefore consider becoming parties to the Convention on Cluster Munitions in the interests of protecting human lives.

30. **Mr. Maimeskul** (Ukraine) said that his Government strongly supported the purposes of the CCW regime and welcomed the substantive work done by the groups and meetings of experts established under the Convention and its Protocols. It fully endorsed efforts to resolve the issue of cluster munitions within the framework of international humanitarian law. While it recognized the serious humanitarian problems caused by those

munitions, it considered them to be legal weapons and therefore insisted on the need for humanitarian concerns about their use to be balanced against security imperatives.

31. With regard to article 4 of the draft protocol on cluster munitions, concerning general prohibitions and restrictions, the length of the transition period and its extension should be decided on the basis of the real needs of States to manage cluster munitions that did not meet the standards referred to in paragraph 2 of that article. Given that the Group of Governmental Experts had not been able to reach a consensus on the most important provisions of the draft protocol, namely, the requirements for the prohibition of the use, stockpiling and maintenance of cluster munitions, the Group's mandate should be extended until 2011 in the hope that a draft protocol could be agreed on and submitted for adoption to the next Meeting of the High Contracting Parties. It should be noted, however, that effective implementation of new binding measures to prohibit an entire class of weapons would require universal application of those measures and results-oriented international cooperation.

32. **Mr. Wang Qun** (China) said that in the previous 30 years, the Convention on Certain Conventional Weapons and its Protocols had gained increasing acceptance and become steadily more effective in addressing the humanitarian concerns raised by certain conventional weapons. China strongly supported the Convention in all its aspects and had consented to be bound by the Convention and all its Protocols.

33. In 2010, his Government had continued to promote public awareness of the Convention and to participate actively in international exchanges and cooperation. Since 1998, it had provided humanitarian demining assistance in various forms to nearly 40 countries in Asia, Africa and Latin America, including to Sri Lanka, the Sudan and Afghanistan in 2010. China had provided victim assistance for the first time, in 2010, in the form of support for the reintegration of mine-affected persons in Peru and Ethiopia as part of his Government's efforts to help build a mine-free world.

34. His delegation supported the work of the Group of Governmental Experts on a new protocol on cluster munitions. The latest version of the text prepared by the Chairperson of the Group reflected the significant degree of consensus achieved thus far and struck a balance between legitimate military needs and humanitarian concerns. The Group should continue negotiations on the basis of that text. He called on all Parties to work together to reach an agreement as soon as possible.

35. **Mr. Suda** (Japan) said that the Convention provided the most relevant and appropriate multilateral forum for dealing with issues related to the regulation, restriction or prohibition of conventional weapons. Japan would continue to be actively engaged in activities to promote the universalization of the Convention, particularly in the Asia-Pacific region, and would be looking to exploit synergies with other pertinent conventions on similar types of weapons, such as the Convention on Cluster Munitions and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

36. It was disappointing that no agreement had been reached on a new protocol to restrict cluster munitions within the CCW framework. The current draft text required further scrutiny and discussion, but his delegation remained hopeful that an agreement could be reached, and it supported the continuation of the negotiations. The major producer and possessor States of cluster munitions must be involved in the process because, without concrete measures on their part, it would be impossible to mitigate the humanitarian concerns those munitions raised. Lastly, it was to be hoped that the discussions at the Meeting would result in the adoption of an appropriate agenda for the forthcoming Review Conference.

37. **Mr. Antonov** (Russian Federation), highlighting the importance of the Convention on Certain Conventional Weapons in the fields of disarmament and humanitarian law, said that it had helped the international community to deal with highly complex situations by proceeding from the key principle of a balance between defence and humanitarian interests. Efforts to enhance its role further should focus on the universalization of the instrument and its Protocols and full compliance with their provisions.

38. In that connection, his Government had welcomed the adoption of the plan of action to promote the universality of the Convention and had actively contributed to its implementation. The credibility of the Convention should not be held hostage to the drafting of new agreements: any new protocols to the Convention should undergo comprehensive expert examination and be based on generally acceptable decisions.

39. His delegation applauded the preparatory work carried out for the Meeting and looked forward to participating actively in its deliberations and in the preparations for the Fourth Review Conference. The Group of Governmental Experts was to be commended for the important work done on cluster munitions. Such weapons could pose a serious humanitarian threat, especially when used in violation of international humanitarian law and instructions regulating their use. Conversely, their proper use and technical upgrading would help to reduce humanitarian risks.

40. His Government was committed to the negotiations on cluster munitions. Indeed, for the sake of achieving mutually acceptable and reasonable solutions, it had taken difficult decisions on a number of important issues. It regarded the text submitted by the Chairperson of the Group as a basis for further work but had reservations about some of the provisions. While the measures proposed with regard to the military and technical upgrading of cluster munitions and the conditions for their storage, destruction and transfer could mitigate the humanitarian consequences of such weapons, acceptance of the proposals would have significant military, technical and financial implications for the Russian Federation.

41. The main producers, exporters and users of cluster munitions were participating in the negotiations on the issue within the CCW framework, which gave a different weight to the decisions taken. His Government of course respected the decisions and measures adopted in other international forums but expected a similarly respectful approach towards the negotiations conducted within the CCW framework and their outcome. The systematic transposal to the Convention of standards agreed in other forums was unwarranted and counterproductive.

42. Notwithstanding the results achieved, there were still diverging views on a number of questions of principle that prevented the Group of Governmental Experts from reaching a compromise. What was important was to show political will and flexibility and to give careful consideration to the legitimate interests of all Parties to the Convention. As for the question of whether to continue working along the same lines or to pause to take stock of the situation, his Government was ready for serious discussion.

43. The Russian Federation's position on mines other than anti-personnel mines (MOTAPMs) remained unchanged: such weapons did not pose an urgent humanitarian threat, and the topic was therefore not a priority.

44. **Mr. Quintanilla Román** (Cuba) said that Cuba complied strictly with the commitments it had assumed under the Convention and the Protocols to which it was a Party (I, II and III). Its participation as an observer in consultations under amended Protocol II and Protocol V demonstrated its interest in following developments under the Convention as a whole. His Government was considering the possibility of Cuba's accession to Protocols IV and V, with a view to furthering the efforts towards universalization.

45. Cuba supported the call for complete and general disarmament. Much remained to be done, however, to secure international peace and security. The world faced a real threat of war, possibly even a nuclear war, yet just as millions were suffering the impact of the largest economic crisis since the Great Depression, military spending was soaring. The Non-Aligned Movement had repeatedly warned of the huge imbalance between the industrialized and the developing countries in the manufacture, possession of and trade in conventional weapons and had called on the former to cut weapons production and trade. Equally alarming was the disproportionate attention paid in international forums to certain kinds of conventional weapon, such as small arms and light weapons, to the detriment of other kinds, such as sophisticated conventional weapons, the effects of which were devastating.

46. His Government shared the legitimate humanitarian concerns about the indiscriminate and irresponsible use of MOTAPMs, but any measure to address the problem must also take into account the legitimate right of peoples to defend themselves and their territories as enshrined in the Charter of the United Nations. In that connection, he noted that Cuba had not become a party to the Anti-Personnel Mine Ban Convention because it was not in a position to renounce the use of such weapons, owing to the continued hostility and aggression it had experienced for five decades from a military super-Power. Nevertheless, Cuba had always supported efforts to eliminate the terrible effects of anti-personnel mines, while maintaining the necessary balance between humanitarian and security interests, and had engaged constructively in discussions within the CCW framework, making concrete proposals with a view to ensuring that the opinions of developing countries were taken into consideration.

47. Cluster munitions had indiscriminate effects and caused huge civilian casualties. His Government had therefore repeatedly called for their total prohibition. The negotiating efforts of the Group of Governmental Experts had been admirable, and the work towards achieving within the framework of the Convention, which brought together the main manufacturers and users of cluster munitions, an instrument to regulate and limit the use of those munitions had to be continued.

48. The forthcoming Review Conference would be an opportunity to analyse the progress made and the collective measures that needed to be taken to achieve and maintain international peace and security. What was required was true political will and greater respect for the principle of peaceful coexistence and the right to free determination.

49. **Mr. Hilale** (Morocco) said that the protection of civilians from weapons that had indiscriminate effects or caused serious trauma must lie at the heart of the preparations for the Review Conference the following year. The successful conclusion the previous week of the First Meeting of States Parties to the Convention on Cluster Munitions had revealed the growing awareness of the need to maintain a humanitarian perspective in arms control.

50. The Group of Governmental Experts had nearly completed its task of negotiating a protocol on cluster munitions, and the remaining divergences of view could be resolved through dialogue and concerted efforts. His delegation therefore supported the extension of the Group's mandate for another year and called on the Parties to show flexibility and pragmatism, so that a sixth protocol, on cluster munitions, could be adopted at the Fourth Review Conference.

51. The effectiveness of the Convention on Certain Conventional Weapons depended on its universalization. The plan of action adopted at the Third Review Conference to achieve that goal should continue to be implemented. The Parties should redouble their efforts to promote universality, particularly through the organization of seminars such as the one that Morocco had arranged, with cooperation from the Implementation Support Unit, for North

African and Middle Eastern States that were not party to the Convention. The Unit had worked tirelessly, and the Meeting should consider boosting its overburdened staff.

52. **Mr. Rao** (India) said that his country attached great importance to the Sponsorship Programme and plan of action to promote the universality of the Convention. It also welcomed progress on the establishment of a compliance mechanism. The strengthening of secretariat support for the Convention and its Protocols, including the Geneva Branch of the Office for Disarmament Affairs, should be delayed no further.

53. Once implemented by a wide cross section of States, Protocol V would go a long way towards mitigating the humanitarian concerns associated with explosive remnants of war.

54. Conclusion of a protocol on cluster munitions, with broad participation from a representative range of States, would add another element to the CCW framework and make a significant impact on the ground. He thus welcomed the progress achieved in the negotiations to date.

55. One of the principal instruments of international humanitarian law, the Convention had proved itself dynamic by ensuring a timely response to advancements in weapons technology and methods of warfare. He particularly appreciated the contributions to the CCW process of the International Committee of the Red Cross (ICRC) and non-governmental organizations.

56. **Mr. Hoffmann** (Germany) welcomed the recent entry into force of the Convention on Cluster Munitions, an instrument developed outside the CCW framework. Encouraged by the First Meeting of States Parties, held in Vientiane in November 2010, his delegation was now more convinced than ever that real progress in disarmament was possible. It continued to believe strongly in the CCW process as a key multilateral mechanism making a unique contribution to the protection of civilians in the face of ever more violent conflicts.

57. Regrettably, tireless efforts to negotiate a draft protocol on cluster munitions had not managed to bridge the gap between the States parties to the Convention on Cluster Munitions and those States still claiming the right to use weapons with unacceptable humanitarian consequences. The latest draft text had not achieved the required balance between humanitarian and military considerations and would have little humanitarian impact on the ground. It sought to prohibit ordnance older than 30 years, namely, ordnance with an already expired shelf-life, and to legitimize those munitions that possessed one sole safeguard, no matter how old or unreliable, or how unacceptable the humanitarian consequences. Cluster munitions were hardly effective or efficient even from a military perspective, since huge collateral damage surely ran against long-term military strategic goals. He failed to understand, also, why sensor-fused munitions were defined in the text as cluster munitions, since they did not spread over a wide target area and were not defined as such in the Convention on Cluster Munitions.

58. His delegation wished to propose an adapted mandate for the Group of Governmental Experts in 2011. Since too many issues remained unresolved, scarce resources should be focused on a specific aspect for which consensus would be within reach and an immediate and tangible humanitarian impact achievable. The immediate and total prohibition of all transfers of cluster munitions was one such issue. A ban would prevent expired cluster munitions from being transferred into conflict areas to cause particularly unacceptable humanitarian harm. Once a prohibition on transfers had been achieved, negotiations should continue on more far-reaching provisions. He proposed that the Group's mandate for 2011 should be worded as follows: "The Group of Governmental Experts (GGE) will continue its negotiations to address urgently the humanitarian impact of cluster munitions, while striking a balance between military and humanitarian considerations, by negotiating an immediate prohibition on transfers for all cluster

munitions as a first step.” If such an agreement was not reached, a pause in the negotiation process should be envisaged, to allow States to reconsider their national policies on cluster munitions.

59. **Mr. Khvostov** (Belarus) said that his country continued to implement its commitments under the Convention and all its Protocols and to comply with its reporting obligations. Other High Contracting Parties should do likewise. Efforts were under way in Belarus to bring domestic legislation into line with international humanitarian law. National implementation machinery had been established, with representatives from Belarusian Government bodies and ICRC; relevant instructions had been approved for the Armed Forces; and seminars and awareness-raising activities had been organized for the military as well as the civilian population, with the support of ICRC.

60. An international conference on international humanitarian law had been convened in Belarus in November 2010 for States members of the Commonwealth of Independent States. The Belarusian people had suffered the consequences of many armed conflicts, and such initiatives were evidence of their commitment to high humanitarian ideals.

61. The Convention on Certain Conventional Weapons provided a unique forum for dialogue between possessors and producers of such weapons, at which the humanitarian concerns relating to the use of cluster munitions should continue to be addressed. His delegation welcomed the progress that had been made on the issue over the past three years.

62. Additional measures for strengthening the Convention’s authority should be considered in preparation for the Fourth Review Conference. The establishment in 2009 of an Implementation Support Unit had been most welcome in that connection, and further efforts should be made towards universalization. Belarus was ready to do its part. More than 30 years since the conclusion of the instrument, 113 Parties to the Convention was a disappointing number, and the pace of accessions to the Protocols also left much to be desired. It was, moreover, a matter of concern that many major producers and possessors of weapons remained outside the CCW framework, as did numerous post-conflict States grappling with problems posed by landmines and explosive remnants of war.

63. **Mr. Woolcott** (Australia) said that in order to ensure that the Convention was in fact able to prohibit or restrict the use of weapons that were excessively injurious or had indiscriminate effects, it must remain responsive to developments in international humanitarian law, as well as lead them. There was also a need to build on synergies with other relevant instruments.

64. He welcomed the new accessions to the Convention and its Protocols. Greater efforts must still be made, however, towards universalization. Australia had done its part, particularly at the regional level, including by providing assistance to States in implementing their obligations under the instruments. Australia was also a key financial contributor to the Sponsorship Programme.

65. The entry into force of the Convention on Cluster Munitions in August 2010 had been a significant achievement. Australia was a strong supporter of that instrument but accepted that some States, including major producers, were not yet in a position to accede to it. The Convention on Certain Conventional Weapons and its Protocols benefited from having a large number of Parties and a high level of technical expertise, and Australia therefore continued to support efforts to achieve within the CCW framework meaningful prohibitions on the use of cluster munitions by those States not yet party to the Convention on Cluster Munitions.

66. In order to provide for a strong humanitarian outcome and advance the development of international humanitarian law, a draft protocol on cluster munitions should, as a minimum, include: meaningful prohibitions with some immediate effects; the shortest

possible transition periods; stockpile destruction and clearance obligations; a ban on transfers; and definitions consistent with the Convention on Cluster Munitions. Negotiations must not be allowed to continue indefinitely but should be concluded at the Fourth Review Conference.

67. One area not covered by the Convention on Certain Conventional Weapons was MOTAPMs. Undetectable and persistent MOTAPMs posed clear humanitarian risks, which could be countered effectively through the conclusion of a protocol governing their use. In conclusion, he wished to encourage the broadest possible support for the declaration on anti-vehicle mines made by Australia and 22 other States at the conclusion of the Third Review Conference.

68. **Mr. Song** Seonjong (Republic of Korea) said that the Convention had proved capable of responding to developments in weapons technology and new challenges in armed conflict. His Government faithfully implemented the Convention's principles and provisions and continued to raise awareness of the instrument and its Protocols among the Armed Forces, holding regular education and training courses and issuing relevant instructions on the management of explosive remnants of war.

69. North Korea's provocative shelling of Yeonpyeong Island on 23 November 2010 had been a grim reminder of the dire security situation surrounding the Korean Peninsula. That premeditated and deliberate act, which had left 2 marines and 2 civilians dead and 16 marines and 3 civilians injured, had been in blatant violation of the Charter of the United Nations, the Armistice Agreement and the Protocol on the Implementation and Observance of Chapter II on Non-aggression of the South-North Basic Agreement of 1992. The Republic of Korea deplored the indiscriminate shelling of civilians and urged North Korea to stop all activities endangering the peace and stability of the peninsula and surrounding region. It would respond resolutely to any further provocation on the part of North Korea.

70. Despite stringent security realities, his Government remained committed to the spirit and objective of the Convention. It was convinced that the negotiations on a draft protocol on cluster munitions had not been in vain, even though a final outcome had not been reached. The Republic of Korea would continue to engage constructively in future negotiations and would do its part to reduce the humanitarian impact of such munitions by reflecting relevant international standards in its own defence policy.

71. **Mr. Strohal** (Austria) said that Austria had been among the first States to outlaw cluster munitions at the national level and to ratify the Convention on Cluster Munitions. He was proud to announce, also, that Austria's stockpile destruction was now complete.

72. An increasingly widely shared understanding had developed in recent years of the indiscriminate effects of cluster munitions, whereas, at the previous Review Conference, many States had still considered such weapons to be legitimate and acceptable. Regrettably, however, tangible progress on a draft protocol had yet to be achieved, with certain proposals threatening only to perpetuate harm through the continued use of cluster munitions. There was value in maintaining a dialogue on the issue within the framework of the Convention on Certain Conventional Weapons, but he agreed with the representative of Germany that an adaptation of the mandate of the Group of Governmental Experts, or a suspension of negotiations, should be considered. Four years of discussions within the Group had only cast the identification of a mutually acceptable, genuinely humanitarian solution further into doubt. Meanwhile, he wished to urge all High Contracting Parties to consider adopting a unilateral moratorium on the use, production and transfer of cluster munitions.

73. **Mr. Matjila** (South Africa) said that his country attached great importance to the universalization of the Convention and its Protocols and their full implementation. South Africa's accession to the instrument and the first four Protocols was evidence of its

commitment to promote international peace and security, address civilian suffering caused by armed conflict and implement humanitarian and arms-control policies. He was pleased to announce that South Africa's acceptance of the amendment to article 1 of the Convention and ratification of Protocol V had recently been approved by its parliament.

74. Although he welcomed the significant efforts made over several years to address cluster munitions within the CCW framework, he was concerned at the failure to achieve progress in negotiating a draft protocol owing to a lack of agreement on issues such as definitions, prohibitions and restrictions, and clearance deadlines.

75. The proposal introduced in technical annex C of the Chairperson's text of 6 September 2010 (CCW/GGE/2010-II/WP.2) could make an immediate positive impact by banning the use, transfer, stockpiling and retention of cluster munitions produced before 1980. His delegation remained uncertain, however, as to the real significance of the proposed measures on account of a lack of information and transparency. Of continuing concern, also, were the deferral periods provided for in consecutive drafts, which only served to legitimize the continued use of indiscriminate cluster munitions and did not serve the goal of protecting civilians both during and after armed conflict.

76. His delegation was supportive of continuing dialogue on cluster munitions and stock being taken of progress to date. It was not certain, however, whether the current format should be maintained. Other important issues also required attention in preparation for the Fourth Review Conference and must be factored in to the programme of work.

77. **Mr. Sirakov** (France) said that his Government considered it desirable to continue to pursue, within the framework of the Convention, discussions and negotiations aimed at restricting as much as possible the use of so-called "inhumane" weapons. France was fully committed to the negotiation and adoption of a sixth protocol, on cluster munitions. Such a protocol should be compatible with the Convention on Cluster Munitions, to which France was a party. A draft protocol on cluster munitions should have immediate effects and contain both practical and robust humanitarian provisions.

78. On the basis of bilateral discussions held with major producer States, his delegation believed that it was possible to agree on a text containing prohibitions on the use of a certain class of weapons — such as all those produced before 1980 — and prohibitions on the transfer of another even broader class of weapons. An instrument with those two prohibitions would have an undeniable humanitarian effect, proscribing the use of more than 50 per cent of the world's cluster munitions. Enabling the protocol to evolve by means of an amendable technical annex would allow for the gradual establishment of increasingly ambitious standards.

79. His delegation was in favour of renewing the mandate of the Group of Governmental Experts to continue negotiations on a draft protocol. The mandate could specify that the Group should finish its work in time for the Fourth Review Conference in 2011, though without specifying the parameters of the future protocol. All delegations should bear in mind that the objective of the negotiations was to conclude a protocol that would have meaningful humanitarian effects and should demonstrate the flexibility needed to achieve that objective.

80. **Mr. Oyarce Yuraszek** (Chile) said that he wished to reaffirm Chile's commitment to international humanitarian law and to the goal of general and complete disarmament. The Convention on Certain Conventional Weapons and its Protocols comprised a set of principles, standards and guidelines the key dimension of which was humanitarian in nature.

81. Chile would help to ensure that the draft protocol on cluster munitions was complementary to and compatible with the Convention on Cluster Munitions. The goal of

such “new generation” instruments was to provide an effective, global and non-discriminatory foundation, the components of which included the protection of human life, transparency and multilateral assistance.

82. Chile was developing a bill on assistance to victims of military explosives that would provide for a cross-cutting approach to the implementation of the country’s obligations under the Convention on Certain Conventional Weapons, the Anti-Personnel Mine Ban Convention and the Convention on Cluster Munitions. It was currently in the process of ratifying the latter instrument.

83. Cooperation and assistance were essential for the implementation of the Convention on Certain Conventional Weapons and its Protocols, particularly with regard to the clearance of explosive remnants of war, victim assistance and rehabilitation, and the strengthening of national capacity. In keeping with its possibilities, Chile had provided training and assistance to various countries in its region. In order to provide increasingly effective and targeted protection to civilians, the support provided by international organizations, specialized non-governmental organizations and the secretariat was also necessary. That fact should be reiterated at the Fourth Review Conference in 2011. Lastly, it was important to continue improving methodologies for national reporting, which contributed to strengthening the transparency, legitimacy and effectiveness of the CCW framework.

84. **Mr. Peláez** (Argentina) said that, because it was based on established rules of international custom and international humanitarian law relating to the conduct of hostilities, the Convention on Certain Conventional Weapons ensured that the legitimate rights of States to security and self-defence did not override their humanitarian responsibilities and obligations. It was thus a dynamic instrument that required continual adjustment in order to strike the necessary balance between such considerations.

85. It was regrettable that, despite the efforts of the High Contracting Parties, and after nearly four years of negotiations, the Group of Governmental Experts had not succeeded in concluding a draft protocol on cluster munitions. His Government was of the view that the Oslo process and the negotiations conducted within the framework of the Convention should be complementary, not mutually exclusive. The latest version of the draft protocol, although not final, reflected progress made and concessions and compromises on the part of both sides. Efforts to address the problem of cluster munitions contributed to strengthening the Convention. His delegation therefore favoured extending the mandate of the Group of Governmental Experts for the negotiation of a draft protocol.

86. It was also necessary to continue strengthening the implementation of the existing Protocols. Argentina had submitted its national report and supported the compliance mechanism established at the Third Review Conference.

87. His delegation had traditionally supported efforts to deal with the issue of MOTAPMs within the framework of the Convention, since it considered that amended Protocol II was inadequate for addressing humanitarian problems relating to the use of such devices. It would therefore support proposals aimed at concluding a legally binding instrument on the use, production and transfer of such mines.

88. **Mr. Akram** (Pakistan) said that the 2010 Meeting of the High Contracting Parties to the Convention was of special significance in that it would set the tone for the Fourth Review Conference, to be held in 2011, thereby laying the groundwork for future action.

89. Pakistan had participated in the meetings of the Group of Governmental Experts in 2010 and had contributed to efforts to reach a balanced draft protocol on cluster munitions. Although major differences between the Parties had prevented such an outcome, his delegation remained optimistic about the success of future negotiations. While Pakistan

recognized the tactical utility and legitimacy of using cluster munitions against military targets, it had never used such munitions and remained completely opposed to their use against civilians. The ultimate goal of minimizing the loss of innocent lives could be met only if the major users and producers of cluster munitions were bound by a protocol adopted by consensus within the framework of the Convention. A pragmatic compromise would significantly strengthen international humanitarian law.

90. In order to enhance the effectiveness of the Convention, concerted efforts were needed to speed progress towards universalization and strengthen the implementation of the existing Protocols. It would be useful to develop a comprehensive compliance mechanism, without adding to the reporting burden of the High Contracting Parties.

91. His Government believed that MOTAPMs were legitimate defensive weapons and that the existing provisions of the Convention and those of international humanitarian law were sufficient to address problems related to their irresponsible use.

92. **Ms. Khanna** (United States of America) said that her delegation remained fully committed to concluding a legally binding agreement on cluster munitions within the framework of the Convention in order to mitigate the impact of such weapons on civilian populations. Important progress had been made in the past year, and the Parties were much closer to reaching a successful conclusion to what had been a difficult negotiation process. The draft text prepared by the Chairperson of the Group of Governmental Experts balanced military utility and humanitarian objectives and, if subscribed to by the major users and producers of cluster munitions, would, on entry into force, immediately prohibit the use and transfer of a large proportion of the world's cluster munitions – a much larger proportion, in fact, than was currently prohibited by the Convention on Cluster Munitions.

93. Her delegation strongly disagreed with non-governmental organizations that might, in view of the recent entry into force of the Convention on Cluster Munitions, regard the negotiations as unnecessary. A protocol on cluster munitions to the Convention on Certain Conventional Weapons that imposed meaningful requirements on the approximately 90 per cent of the world's stockpiles that remained outside the Oslo framework would constitute an important step forward from the humanitarian perspective.

94. The text submitted by the Chairperson provided for an immediate ban on cluster munitions produced before 1980 that did not incorporate safeguards. Such a ban would cover a large portion of the weapons cited as being the most likely to have unacceptable humanitarian effects and would require the United States immediately and permanently to set aside from use and ultimately destroy approximately 50 per cent of its cluster munition stocks. Other provisions, coming into effect after optional deferral periods, would cover an even greater percentage of its arsenal. It was therefore inaccurate to assert that there had not been significant movement in the negotiations or that the draft, if agreed, would not have an immediate and significant effect on the ground.

95. Although difficult discussions lay ahead, the Parties currently had before them a text that reflected some of the persistent concerns of both sides. The standards it incorporated would be subject to evolution over time, if agreement could be reached to modify them. The text also included exemptions deemed critical by various States – some by States parties to the Convention on Cluster Munitions and some by major user and producer States. The Parties must now move ahead deliberately, taking each other's sincere concerns and genuine efforts into account. With continued cooperation and political will, the negotiations could be concluded in 2011. She therefore wished to urge all States present to support the extension of the negotiating mandate of the Group of Governmental Experts — updated to include a reference to the Chairperson's most recent text — for another year. Prolonged debate about altering the substance of the mandate should be avoided in favour of an approach that would move the process forward efficiently and cooperatively.

96. **Ms. Ališauskienė** (Lithuania) said that the time had come to conclude the negotiations in the Group of Governmental Experts by adopting a strong legally binding instrument to prohibit cluster munitions that caused unacceptable harm to civilian populations.

97. She welcomed the First Meeting of States Parties to the Convention on Cluster Munitions. Lithuania was currently in the final stages of ratifying that instrument and hoped to join a much larger group of States parties at the Second Meeting, to be held in Lebanon in 2011. At the same time, her Government recognized that more than two thirds of the world's cluster munitions were not covered by the Convention on Cluster Munitions, and that there was a need to negotiate within the CCW framework a complementary and compatible instrument that addressed the humanitarian concerns caused by those weapons and to which all major countries that produced, stockpiled and used cluster munitions were parties.

98. While the current draft protocol provided a good basis for future work, more discussion was needed on the definition of cluster munitions contained in the technical annexes, the scope of the prohibitions and the length of the transition periods referred to in article 4.

99. **Mr. Hauge** (Norway) said that, while it was inherently difficult for a diverse group of States to arrive at a consensus on issues relating to disarmament, that was nevertheless the aim of the Convention on Certain Conventional Weapons. Despite five years of negotiations, deliberations on the issue of MOTAPMs had not been conclusive. His Government believed that that issue might be resolved if the realities on the ground, as described by United Nations field organizations and other humanitarian actors, were taken as the point of departure. On another matter, his Government had called for a decision to make all the provisions of Protocol V mandatory for all High Contracting Parties, in order to strengthen that instrument.

100. As to the issue of cluster munitions, despite widespread recognition that such munitions posed an unacceptable threat to civilians, the Parties did not seem to be moving closer to the goal of urgently addressing their humanitarian impact. Acceptance of the text proposed by the Chairperson of the Group of Governmental Experts would require States to adopt a legally binding instrument that prescribed lower standards of international humanitarian law than those set out in the Additional Protocols to the Geneva Conventions and other instruments. The Chairperson's text did not seem to recognize or address the humanitarian problems on the ground or to provide security assurances for States. The text as it currently stood would not put an end to the use of cluster munitions that had unacceptable humanitarian consequences for civilians, and his delegation could therefore not endorse it.

101. According to Norwegian military experts, a ban on the transfer of cluster munitions produced before 1980 would have virtually no effect, as most stockpiles of such weapons were of more recent date. Those produced before 1980 were usually destined for destruction and were generally not regarded as useful from a military standpoint. It would be wrong to think that cluster munitions produced after a certain date did not raise humanitarian concerns where they violated the principles of proportionality and the distinction between combatants and non-combatants. A cut-off date of 1980 would not capture a large number of existing systems and stockpiles, nor would it achieve the goal of adding value to existing international humanitarian law.

102. On the other hand, the adoption of a transfer ban, if based on an understanding that all cluster munitions were prohibited, would definitely add value. In that connection, he drew attention to the proposal submitted by Mexico, New Zealand and Norway, as

contained in document CCW/GGE/2008-V/CRP.17. His delegation looked forward to discussing that proposal with interested States and others.

103. Many States doubted the relevance of continuing the negotiations on a draft protocol on cluster munitions to the Convention on Certain Conventional Weapons, given that States not party to the Convention on Cluster Munitions were free to adopt national legislation along the lines of that instrument at any time, as some had in fact done. Although his delegation did not recommend extending the mandate of the Group of Governmental Experts, if that was the wish of the other Parties, then it proposed that a deadline should at least be set for the conclusion of the negotiations. It was not necessarily more time that was needed but rather more political will. Accordingly, the length of the sessions of the Group of Governmental Experts should be limited to two weeks, including the time set aside for the preparatory work for the Fourth Review Conference. It might also be helpful to state explicitly that the purpose of extending the mandate was to address a recognized humanitarian problem through the negotiation of a protocol on cluster munitions. The deadline for such efforts should be the date of the Review Conference in 2011.

The meeting rose at 1.05 p.m.