
**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 2nd meeting

Held at the Palais des Nations, Geneva, on Thursday, 15 November 2012, at 3 p.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. Domingo (Philippines)

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In the absence of Mr. Domingo (Philippines), Mr. Sareva, Deputy Secretary-General of the Conference on Disarmament and Director of the Geneva Branch of the Office for Disarmament Affairs, took the Chair.

The meeting was called to order at 3.20 p.m.

General exchange of views (*continued*)

1. **The Chairperson**, expressing his apologies, said that he had intended to give the floor to the United Nations Mine Action Service to introduce a film on mine action in Libya, but that the film could not now be shown owing to technical difficulties.
2. *Mr. Domingo (Philippines) took the Chair.*
3. **Ms. Kasnakli** (Turkey) said that universality of the Convention was a crucial objective. Turkey welcomed the fact that the Sponsorship Programme had promoted further interest in the Convention. The compliance mechanism applicable to the Convention had proved to be a valuable tool for fostering mutual understanding, transparency and confidence-building. Mines other than anti-personnel mines were legitimate weapons that served important defensive purposes. While views differed over the scope, definition and technical details of such mines, proper implementation of amended Protocol II and existing international humanitarian law could meet related humanitarian concerns. Turkey also attached great importance to preventing the transfer of those weapons to terrorist organizations.
4. **Ms. Toledo** (Guatemala) said that in 2012 Guatemala had enacted significant criminal legislation prohibiting the use, production or transfer of cluster munitions and explosive bomblets. Although Guatemala had never used or developed such weapons, the law provided for preventive measures, clearance of cluster munitions and victim assistance. The Ministry of Defence was in charge of risk reduction, assessment of areas contaminated by cluster munitions and the marking, fencing, clearing and destruction of all remnants of cluster munitions and explosive bomblets.
5. **Mr. Debač** (Croatia) expressed his Government's firm commitment to the Convention and all its Protocols, which formed an essential part of international humanitarian law. He welcomed the message from the Secretary-General of the United Nations calling for adequately addressing the humanitarian concerns raised by the use of anti-vehicle mines, explosive weapons and incendiary weapons. Croatia supported the call for certain conventional weapons that had a significant humanitarian impact, such as incendiary weapons and white phosphorous, to be considered within the framework of the Convention.
6. **Mr. Mashoi** (Lesotho) said that his Government had a long-standing commitment to the Convention and its humanitarian goals. The international community must take every measure to prohibit or restrict the use of weapons that had indiscriminate effects or were deemed to be excessively injurious in conflict and post-conflict situations. The principles of international humanitarian law contained in the Convention must be enhanced.
7. In that spirit, Lesotho had become a party to a number of disarmament conventions, including the Convention on Cluster Munitions, and was duty-bound to accede to Protocols to the Convention to which it was not yet a party. It was confident that it would do so in 2013.
8. **Mr. Khan** (Pakistan) said that the Convention was a milestone in the field of arms control and disarmament. Its strength lay in the balance it struck between the humanitarian concerns related to conventional weapons and the security imperatives of States. Pakistan had made a significant contribution to demining efforts throughout the world, particularly in the context of United Nations peacekeeping operations.

9. States parties continued to express contrasting views on anti-vehicle mines and mines other than anti-personnel mines. Anti-vehicle mines were legitimate defensive weapons that helped to deter and prevent armed conflict. While the use of anti-vehicle mines by non-State actors raised humanitarian concerns, such mines were already regulated by the Convention and existing international humanitarian law. Unless provision was made for assistance, cooperation, investment and technology transfer, technological advances in anti-vehicle-mine detectability would do nothing to address humanitarian concerns and would only undermine the legitimate defensive purposes of such mines.

10. **Mr. Ortiz** (Costa Rica) said that universalization of the Convention and its Protocols should be among the primary objectives of the High Contracting Parties. Efforts must focus on those States that were currently in conflict or post-conflict situations and were still contaminated by mines or explosive artillery, and which had signed but not yet ratified the instruments. His delegation agreed with previous delegations on the need for the regulation, restriction and prohibition of weapons that had indiscriminate effects or caused unnecessary suffering, including to combatants. Costa Rica condemned the use of incendiary weapons against civilian populations and expressed its concern at the indiscriminate effects of substances not prohibited by Protocol III and the unnecessary suffering that they caused.

11. **Ms. Vatne** (Norway) said that while the High Contracting Parties should focus on compliance with the obligations that they had undertaken under the Convention, her delegation recognized that there were pending issues that should be discussed on the implementation of Protocol III. Her delegation was concerned about the use of white phosphorous. It also remained concerned about the impact of anti-vehicle mines on persons. However, while it was important to address humanitarian concerns, there was a need to spend the available time and resources in the most effective manner. Given the wide range of views on those concerns, resources should not be spent on new negotiations within the framework of the Convention at the current time. Furthermore, meetings of experts should not be held as a matter of course. Norway greatly appreciated the active participation of humanitarian organizations and civil society in the work done by the Conference to protect civilians and prevent human suffering.

12. **Mr. Avilés** (Ecuador) said that much work remained to be done in promoting the universalization of the Convention and its Protocols, which were among the most important instruments of international humanitarian law. Ecuador supported the report on mines other than anti-personnel mines submitted at the current forum by the Geneva International Centre for Humanitarian Demining. There was a need for a more robust legal framework to govern the use of such mines, more concerted efforts for the reconstruction and development of contaminated areas and more effective prevention and reduction of the adverse effects of anti-vehicle mines on civilian populations. Lastly, he drew attention to the South American Defence Council plans of action, which *inter alia* sought to promote democracy and development and make the region a zone of peace.

13. **Mr. Meier** (United States of America) said that universalization was an important pillar of the Convention and urged States in regions most affected by the relevant weapons to accede to amended Protocol II and Protocol V. The United States continued to support the adoption of a legally binding protocol on mines other than anti-personnel mines and encouraged the Meeting to extend the mandate of the relevant open-ended meeting of experts to 2013. There was also a need for further discussion of the matter at the current forum, including issues relating to technological advances.

14. The United States was deeply disappointed at the failure to conclude a protocol on cluster munitions at the Fourth Review Conference. The adoption of such a protocol would have had a substantial humanitarian impact on the ground. The United States continued to implement a national cluster munition ban policy. Under the policy, cluster munitions used

after 2018 must leave no more than 1 per cent unexploded ordnance during combat operations in various operational environments.

15. The United States supported the current programme of work. It also understood the concerns raised over costs. It supported efforts to ensure that the work was conducted as efficiently as possible. Further discussion of improvised explosive devices and mines other than anti-personnel mines within the framework of the Convention would enhance its effectiveness and vitality.

16. **Mr. Guzmán** (Chile) said that the Convention and its Protocols laid the foundation for the protection of human beings against the indiscriminate effects of conventional weapons and met new challenges while striking a balance between military necessity and humanitarian considerations. Efforts must be made to uphold the Convention as an instrument of international humanitarian law for the prevention and reduction of civilian casualties. The role of the International Committee of the Red Cross (ICRC) in promoting international humanitarian law in disarmament efforts was of crucial importance. Aware of the responsibility of States to protect their populations, Chile had taken steps to complement the Convention at the national level by offering protection and assistance to victims of anti-personnel mines, cluster munitions, explosive remnants of war and other unexploded ordnance.

17. **Mr. Levon** (Israel) said that the strength of the Convention lay in the balance struck between military and humanitarian considerations. Israel welcomed the efforts made at the Fourth Review Conference to reach agreement on a protocol on cluster munitions. Greater efforts must be made to promote universalization of the Convention, especially in regions such as the Middle East, where very few States had agreed to be bound by it.

18. Israel reiterated its deep concern about man-portable air defence systems (MANPADs) and short-range rockets, which presented a serious threat to civil, commercial and military aviation when they fell into the wrong hands. Steps must therefore be taken to prevent those weapons from reaching terrorists and non-State actors. Avenues must be explored to encourage States to be bound by amended Protocol II rather than the original Protocol, as the amended Protocol would serve to strengthen the Convention and its humanitarian impact. Efforts must also be made to address the issue of improvised explosive devices, the weapon of choice of terrorists, which continued to plague many regions of the world. His delegation would welcome further discussion on mines other than anti-personnel mines within the framework of the Convention, provided that such discussion took into account the need to balance military and humanitarian considerations.

19. **Mr. Thammavongsa** (Lao People's Democratic Republic) said that the Lao People's Democratic Republic had in 2012 submitted the instrument of consent to be bound by Protocol V and had already submitted its first national report. The Government was also considering accession to other instruments under the Convention. It was thanks to the sponsorship programme that countries lacking resources, such as his own, could take part in the Meeting. He underscored how important that was for efforts to make the Convention universal.

20. **Mr. Endoni** (Observer for Nigeria) said that Nigeria, as a signatory to the Convention on Certain Conventional Weapons, was making efforts to accede to the Convention and its Protocols. The attention of the Meeting had focused on explosive remnants of war and improvised explosive devices, which had become a serious threat to Nigeria's security and development, and mines other than anti-personnel mines MOTAPMs, but more consideration should be given to the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III). Such weapons more often than not found their way to African countries.

21. **Ms. Lawand** (International Committee of the Red Cross), noting that considerable time and resources had been devoted to strengthening the rules of humanitarian law governing anti-vehicle mines, said that humanitarian organizations had portrayed the problems such mines posed quite clearly at the intersessional meetings held in April 2012, drawing attention to the shortcomings of the instruments and laws currently governing their use. Clearly, there was an urgent need to develop credible and effective measures to address the problem by strengthening existing rules and ensuring their effective implementation.

22. The use of white phosphorous against civilians and civilian objects was a matter of concern. Weapons employing white phosphorous had been used recently in densely populated areas. The military, technical, legal and humanitarian aspects of their use should be subject to scrutiny, either in the Group of Governmental Experts or in another setting.

23. **Mr. Valencia Muñoz** (Colombia) said that the plight of victims should remain the focus of any work done in the context of the Convention on Certain Conventional Weapons. In Colombia, improvised explosive devices posed a severe threat to civilians, as they were used indiscriminately by illegal armed groups. Strengthening the Convention and its Protocols required the universalization and effective implementation of those instruments and cooperation and exchange of experience, but progress could also be made in other areas, such as the regulation of MOTAPMs and better control of incendiary weapons. It was crucial to continue the dialogue among States, with the participation of civil society, in order to achieve a consensus on those important issues.

24. **Mr. Goose** (Human Rights Watch) welcomed the focus on incendiary weapons, and specifically weapons using white phosphorous, whose excessive harm was well known. Protocol III had not functioned adequately, as recent experiences in Afghanistan, Libya, Iraq and Gaza had demonstrated. Given the widespread production and enormous stocks of such weapons, problems related to their use would only worsen. It was time for the States to revisit the Protocol and consider how to improve it to afford better protection to civilians, for example by extending the restrictions currently applicable to air-delivered incendiary weapons to surface-delivered ones as well.

25. **Mr. Khvostov** (Belarus) said that a number of NGOs had distributed information documents containing unreliable or false information, for example asserting that Belarus had supported a review of Protocol III, or that Belarus had been the scene of incidents involving MOTAPMs. While he understood the ideology behind the rule allowing for NGO participation in the Meeting, the lack of accountability in the system meant that it was impossible even to identify which NGO had published the erroneous information. The rules of procedure should be revisited, and the secretariat should provide some clarification. If no such clarification was forthcoming, it would be difficult for Belarus to be part of a consensus regarding the participation of NGOs in the Meeting.

26. **Mr. Hoffmann** (Germany) noted that an unofficial paper circulated by NGOs had erroneously cited the positions of Germany with regard to Protocol III. To set the record straight, he recalled that his delegation had on 15 November 2011 issued a statement saying that it believed it appropriate to begin to study and examine the possible misuse of white phosphorous as a weapon, for instance by devoting one day of an experts' meeting to presentations on the subject, and possibly by developing accommodations for its further treatment. The final document of the Fourth Review Conference had for its part noted the concerns raised during the discussions on Protocol III by some High Contracting Parties about the offensive use of white phosphorous against civilians, including suggestions for further discussion of the issue, while noting that there had been no agreement on the various aspects of the matter.

27. **Ms. Kasnakli** (Turkey) requested that the secretariat provide information regarding the participation of NGOs in the Meeting.

28. **Mr. MacBride** (Canada) pointed out that the document in question was unofficial in nature. As the rules of procedure had been adopted at the morning meeting, he wondered whether it was necessary to revisit them.
29. **Ms. Loose** (Implementation Support Unit) said that under rule 49 (1) of the rules of procedure, NGOs were able to submit documents. It had been a long-standing practice to permit them to do so and, once properly registered, to take part in the proceedings.
30. **Mr. Khvostov** (Belarus) said that the issue was not the right of NGOs to submit documents or take part in proceedings, but accountability for the reliability of the information, some of which cast aspersions against States, and the status of the NGOs themselves. Did the rules require for example that such NGOs should have consultative status with the United Nations Economic and Social Council?
31. **Mr. Gill** (India) said that the issue related to the application of rule 49 (1), which referred to “special competence”. It would be useful to explain how that concept was interpreted and applied.
32. **Mr. Hoffmann** (Germany), supported by **Mr. Schmid** (Switzerland), said that he in no way wished to challenge the right of participation of NGOs. The rules of procedure had been adopted, and their application had so far not raised any problems. It was unadvisable to begin a debate on the right of NGOs to take part in the meeting.
33. **Ms. Loose** (Implementation Support Unit) said that there was no requirement for NGOs to have consultative status with the United Nations Economic and Social Council in order to participate in meetings held in the context of the Convention.
34. **Ms. Mehta** (India), supported by **Ms. Kansakli** (Turkey), said that her delegation did not wish to impose any kind of censorship on NGOs or anyone else taking part in the proceedings, but that there was a deficiency in the way the rules of procedure were interpreted and applied.
35. **Mr. Khvostov** (Belarus) said that he was not advocating censorship. It was nonetheless necessary to specify in the rules of procedure how to set the record straight when erroneous information was circulated by NGOs. It was not always possible to make a statement during deliberations.

Mines other than anti-personnel mines (CCW/MSP/2012/4)

36. **The Chairperson** said that the Secretary-General of the United Nations had called on the High Contracting Parties to continue work to ensure that MOTAPMs no longer harmed civilians and impeded social and economic development. A meeting of experts had taken place in April 2012 and had been chaired by Mr. Jim Burke, Friend of the Chair on mines other than anti-personnel mines. He called on Mr. Burke to introduce the report of the meeting.
37. **Mr. Burke** (Ireland), speaking in his capacity as Friend of the Chair on mines other than anti-personnel mines, said that an open-ended meeting of experts had been convened in April 2012 at the invitation of the Fourth Review Conference to discuss MOTAPMs and their treatment under international humanitarian law. Pursuant to its mandate, the meeting of experts had adopted a report (CCW/MSP/2012/4) for submission to the Meeting of the High Contracting Parties. The report did not seek to present conclusions on issues where differing views had been expressed.
38. The meeting had addressed topics related to humanitarian law, measures taken in addition to humanitarian law, the impact of such mines on humanitarian needs, national policies concerning their use and future prospects for dealing with the issues raised by such weapons. It had considered a document (CCW/MSP/2012/3) providing numerous technical

and practical possibilities for action to address the humanitarian impact. The meeting had heard presentations by the ICRC and the Geneva International Centre for Humanitarian Demining (GICHD) and case studies from the Cambodian, Colombian and Iraqi delegations and from the United Nations Mine Action Service on the situations on the ground. A number of delegations had made statements on their own policies and on current or future technical improvements that could increase detectability or otherwise address humanitarian issues without reducing military utility. The potential for future work related to such weapons had been discussed, it being borne in mind that any decision would be for the Conference to take.

39. From both the humanitarian and military perspectives, more detailed discussions and analysis would be beneficial, in particular to protect civilians against the effects of the past, present and future use of such devices. The Conference could address possible future issues before they would arise. The prevention of civilian access to mined areas and technical approaches to maximizing discrimination and minimizing risk in particular warranted the Conference's attention, as did the development of common detectability standards, which would facilitate and accelerate clearance efforts. The role of non-State actors in the use of MOTAPMs and of improvised MOTAPMs were sensitive and complicated issues that required further attention.

40. There had been no consensus on how the Conference should address the use of MOTAPMs. Many States had advocated the conclusion of a separate, legally binding protocol, while others had considered that if applied correctly, existing instruments of humanitarian law, including amended Protocol II, would sufficiently address the issue. Some had expressed views in favour of the issuance of best practice guidelines.

41. At the current juncture, an effort to agree an enduring legally binding instrument would be premature, but there was sufficient interest and benefit in holding another short, technically focused meeting of experts to move forward. Many delegations felt that such an event should be held in 2013 and should report to the Meeting of High Contracting Parties in November.

42. **Mr. Simon-Michel** (France) said that his country's stance on the use of MOTAPMs had not changed since unsuccessful negotiations had been conducted on the topic in 2006. In the declaration resulting from those negotiations, France had supported the adoption within national frameworks of best practices to ensure that MOTAPMs would be detectable, equipped with a self-destruction or self-neutralization mechanism and used outside of perimeter-marked areas and that they would not be transferred to States failing to meet those criteria.

43. He welcomed the fact that the issue had once again been on the agenda at the meeting of experts held in April. The meeting had highlighted that States had very different perspectives. In his view, the Convention was the best platform for reconciling their views. A number of sensitive topics still remained to be discussed, such as technological advances, the security and transport of ammunitions and the role of non-State actors. His delegation advocated renewing the mandate of the group of experts for 2013.

44. **Ms. Fogante** (Argentina) pointed out that although a protocol on cluster munitions had unfortunately not been adopted at the Fourth Review Conference, at least the debate on MOTAPMs, which had been at a deadlock for many years, had been rekindled. Argentina had called for a broader mandate for the Convention. One of the results of its efforts, the April meeting of experts, had proved to be useful in preparation for the current Meeting. Her delegation proposed renewing the group's mandate in 2013 so that the High Contracting Parties would be provided with alternative approaches. An instrument governing MOTAPMs might thus be a tangible goal for the future.

45. **Mr. Benítez Verson** (Cuba) said that although his delegation shared the humanitarian concerns regarding the indiscriminate use of MOTAPMs, measures should balance humanitarian concerns against the legitimate right of peoples to defend themselves. Not all States parties to the Convention had the same economic and military resources, yet a number of the technological standards proposed would be expensive to implement and, as such, were clearly designed to suit only the countries with the technological and financial means to bear the cost. Developing countries, on the other hand, would be compelled to give up such arms due to limited financial resources, and thereby to compromise their national security.

46. The humanitarian effects of MOTAPMs were a result of the way they were used, not the way they were designed. They were not created to cause devastation, but to immobilize enemy transport, nor were they substantially more deleterious, harmful or lethal than other conventional arms. His delegation therefore opposed the adoption of new legally binding measures. International humanitarian law and the Convention and its Protocols already covered the use of MOTAPMs sufficiently.

47. **Mr. Yermakov** (Russian Federation) said that during previous discussions on MOTAPMs, the Russian delegation had chiefly focused on enhancing international humanitarian law. The issue was, however, sensitive, as the introduction of technical standards had military, political and financial consequences. Ultimately a balance was needed between humanitarian concerns and defence interests, but that balance had proved to be elusive.

48. The main argument for further regulations against MOTAPMs was that they would limit the humanitarian threat of such weapons, but he wondered whether the threat was greater than that of other types of munitions. Despite detailed expert analysis, no conclusive and documented evidence had been advanced against MOTAPMs. There was no proof that they were instrumental per se in tragic incidents. Recent statistics had even suggested that improvised explosive devices (IEDs) were of greater concern. Another argument put forward by delegations was that MOTAPMs were used irresponsibly. He doubted that States parties used the munitions irresponsibly, and even if non-State actors and terrorists using mines and IEDs had done so, that could hardly be regulated under the Convention.

49. The meeting in April had highlighted that a number of the technical military standards were contentious. For example, although the Russian Federation recognized that in post-conflict situations, detectable mines should be used, from a military point of view it made sense to use undetectable devices during conflicts.

50. After many years of discussion by the Group of Governmental Experts, there was no consensus on the main issues, not for lack of political will, but because the problem was complex and multifaceted. It did not seem promising to hold further discussions on the topic. The humanitarian concerns were unjustified. The Convention itself, and in particular amended Protocol II, were already adequate in restricting the use of such munitions.

51. **Mr. Grinevich** (Belarus) said that the April meeting had provided further evidence that there was no consensus on MOTAPMs. The terminology itself was controversial, as the meeting had focused too narrowly on anti-vehicle mines. In his delegation's view, despite assertions to the contrary by various delegations and NGOs, such mines were regulated effectively under current international humanitarian law, including the Geneva Conventions and Protocol I and amended Protocol II of the Convention on Certain Conventional Weapons. The High Contracting Parties had not pointed in their reports to any serious problems implementing amended Protocol II, and the vast majority of cases of the irresponsible use of mines were in countries which had not acceded to that Protocol.

52. Anti-vehicle mines were entirely defensive types of munitions and proposals to restrict or ban them were designed to weaken the defensive capabilities of the majority of

countries. The introduction of new technical standards would not fully minimize the humanitarian risks, while both technologically and financially it would be difficult for most States to replace current stocks. Companies producing new mines compliant with the new standards and States with a political or other agenda would be the sole beneficiaries of such changes.

53. It would not be worthwhile to hold a further meeting of experts on MOTAPMs in 2013. It would be better to use the same format as the one in use between 2007 and 2011 to discuss the topic. The costs saved by not holding another wasteful and futile meeting could be used for more specific aims, such as demining territories and strengthening the Convention.

54. **Mr. Levon** (Israel) recalled that his country had taken part in the negotiations on MOTAPMs between 2002 and 2006 in the hope that an agreement would be reached. After no consensus had been achieved in 2006, Israel had associated itself with the declaration to adopt national policies limiting the use and transfer of MOTAPMs, particularly welcoming the provision limiting the transfer of MOTAPMs to terrorists and States sponsoring them. In a separate statement, his country had set out its understanding that the group declaration distinguished between military use during a time of conflict and at other times.

55. Hopefully, further discussions would be held, building on the five years of earlier negotiations to focus on the specific issues needing attention, such as the need for a balance between military and humanitarian considerations.

56. **Ms. Vatne** (Norway) said that international humanitarian law was not effective in regulating anti-vehicle mines. It was a recurrent scenario in the discussions held in the framework of the Convention that States failed to agree on the humanitarian impact and military utility of MOTAPMs or on the best way to deal with them.

57. Norway had joined in the adoption of the declaration on anti-vehicle mines in 2006, as it at least provided a bare minimum of added humanitarian value. She urged States to adopt it on a national basis and to follow Norway's lead in modernizing their defences by assessing their anti-vehicle mine stockpiles and destroying non-compliant devices.

58. **Mr. Jolly** (Australia) said that MOTAPMs were bound to have a military use for many States, especially those with contested borders. Any approach to regulating MOTAPMs should allow for such use while ensuring that post-conflict humanitarian harm would be kept to a minimum, ideally through regulations on the use and design of such devices.

59. His delegation supported further discussions, informed by the meeting of experts held in April 2012. In 2013, the High Contracting Parties should identify topics requiring further discussion in the framework of the Convention, such as the extent of humanitarian harm caused by MOTAPMs and their military use.

60. Minimizing the costs associated with holding a meeting of experts on MOTAPMs was also a legitimate concern. The 2013 meeting of experts should coincide with the period directly before or after the meetings of experts on Protocol V and amended Protocol II.

61. **Ms. Ramírez Valenzuela** (Mexico) said that mines in general and anti-vehicle mines in particular were by their very nature indiscriminate, acting equally against civilians and military personnel. They also impeded humanitarian assistance, blocked transport routes and caused unnecessary damage to individuals and the environment. Despite the adoption of amended Protocol II in 1996, gaps in the law persisted, and regulations were not rigorous enough. Consequently, MOTAPMs still posed a threat to civilian populations and humanitarian organizations.

62. Given those concerns, her delegation favoured the adoption of a legally binding international instrument completely banning the production, storage, use and proliferation of all types of mines, which would thereby strengthen the framework of amended Protocol II and the Anti-Personnel Mine Ban Convention.

The meeting rose at 6.10 p.m.