

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/78

30 May 2008
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DUBLIN 19 – 30 MAY 2008

FINAL DOCUMENT

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PART I

PROCEDURAL REPORT OF THE DIPLOMATIC CONFERENCE

I. Introduction

1. At the Oslo Conference on Cluster Munitions (Oslo, 22-23 February 2007), a group of States, the United Nations, the International Committee of the Red Cross, the Cluster Muniton Coalition and other humanitarian organisations recognised the grave consequences caused by the use of cluster munitions and the need for immediate action. States participating in the Oslo Conference committed themselves in the Oslo Declaration to:

“1. Conclude by 2008 a legally binding international instrument that will:

- i. prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and
- ii. establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities, clearance of contaminated areas, risk education and destruction of stockpiles of prohibited cluster munitions.

2. Consider taking steps at the national level to address these problems.

3. Continue to address the humanitarian challenges posed by cluster munitions within the framework of international humanitarian law and in all relevant fora.”

2. Pursuant to the Oslo Declaration, further conferences were held in Peru (Lima, 23-25 May 2007), Austria (Vienna, 5-7 December 2007), and New Zealand (Wellington, 18-22 February 2008) with the objective of addressing effectively the humanitarian problems caused by cluster munitions and to prepare for negotiations at the Dublin Diplomatic Conference.

3. The Declaration adopted at the Wellington Conference on Cluster Munitions, *inter alia*:

“welcome[d] the convening of a Diplomatic Conference by the Government of Ireland in Dublin on 19 May 2008 to negotiate and adopt a legally binding instrument prohibiting cluster munitions that cause unacceptable harm to civilians;

also welcome[d] the important work done by participants engaged in the cluster munitions process on the text of a draft Cluster Munitions Convention, dated January 21 2008, which contains the essential elements identified above and decide[d] to forward it as the basic proposal for consideration at the Dublin Diplomatic Conference, together with other relevant proposals including those contained in the compendium attached to this Declaration and those which may be put forward there;

affirme[d] their objective of concluding the negotiation of such an instrument prohibiting cluster munitions that cause unacceptable harm to civilians in Dublin in May 2008 ...”

4. Conferences in support of the Oslo Process on Cluster Munitions were also held as follows:

- Regional Forum in Southeast Asia (Phnom Penh, Cambodia, 15 March 2007);
- Regional Conference (San José, Costa Rica, 4-5 September 2007);
- Belgrade Conference of the States Affected by Cluster Munitions (Belgrade, Serbia, 3-4 October 2007);
- European Regional Conference on Cluster Munitions (Brussels, Belgium, 20 October 2007);
- Livingstone Conference on Cluster Munitions (Livingstone, Zambia, 31 March - 1 April 2008);
- Latin American and Caribbean Conference on Cluster Munitions (Mexico City, Mexico, 16-17 April 2008).

II. Organisation and work of the Dublin Diplomatic Conference

5. The Dublin Diplomatic Conference for the Adoption of a Convention on Cluster Munitions was held at Dublin from 19 to 30 May 2008.

6. On 19 May 2008, the Conference was opened by Mr. Colm Ó Floinn, who was designated by the Government of Ireland to serve as Secretary-General of the Diplomatic Conference. The Secretary-General of the Conference was assisted by Mr. Damien Cole as Executive Secretary of the Conference.

7. At the opening ceremony, the Conference was addressed by Mr. Micheál Martin, T.D., Minister for Foreign Affairs of Ireland; Mr. Ad Melkert, United Nations Under-Secretary-General and Associate Administrator of the United Nations Development Programme; Dr. Jakob Kellenberger, President of the International Committee of the Red Cross; and Mr. Branislav Kapetanovic, Cluster Munition Coalition.

8. In addition, Mr. Ban Ki-moon, Secretary-General of the United Nations, addressed the Conference by video message.

9. At its first plenary meeting, on 19 May 2008, the Conference elected by acclamation Ambassador Dáithí O’Ceallaigh, Permanent Representative of Ireland to the United Nations Office at Geneva, as President of the Conference.

10. At the same plenary meeting, the Conference adopted its Agenda (attached at Annex I to this Report) and the Rules of Procedure (attached at Annex II).

11. At the same plenary meeting, on the proposal of the President and pursuant to Rule 7 of the Rules of Procedure, the Conference unanimously elected the following eight Vice-Presidents:

Ambassador Najla Riachi Assaker	Lebanon
Ambassador Jean-François Dobelle	France
Ambassador Juan Eduardo Eguiguren	Chile
Ambassador Mohamed Yaha Ould Sidi Haiba	Mauritania
Ambassador Steffen Kongstad	Norway
Ambassador Pablo Macedo	Mexico
Ms. Sheila Mweemba	Zambia
Ambassador Sándor Rác	Hungary

12. The following 107 States participated in the Conference: Albania, Argentina, Australia, Austria, Bahrain, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chad, Chile, Comoros, Republic of the Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Germany, Ghana, Guatemala, Guinea, Guinea-Bissau, Holy See, Honduras, Hungary, Iceland, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mexico, Moldova, Montenegro, Morocco, Mozambique, The Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Qatar, Samoa, San Marino, Sao Tome and Principe, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sudan, Swaziland, Sweden, Switzerland, Tanzania, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela and Zambia.

13. The following 20 States attended the Conference as observers: Colombia, Cyprus, Egypt, Eritrea, Ethiopia, Greece, Iraq, Kazakhstan, Kuwait, Latvia, Libyan Arab Jamahiriya, Oman, Poland, Romania, Saudi Arabia, Singapore, Thailand, Turkey, Ukraine and Viet Nam.

14. The representatives of the United Nations Children Fund (UNICEF), United Nations Development Programme (UNDP), United Nations High Commissioner for Refugees (UNHCR), United Nations Institute for Disarmament Research (UNIDIR), United Nations Mine Action Service (UNMAS), United Nations Office for the Coordination of Humanitarian Affairs (OCHA), United Nations Office for Disarmament Affairs (UNODA), United Nations Office of Legal Affairs (UNOLA), the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (IFRC), the European Commission, the Cluster Munition Coalition and the Geneva International Centre for Humanitarian Demining (GICHD) also attended the Conference as observers.

15. The Conference held plenary meetings and meetings of the Committee of the Whole and considered the draft Convention on Cluster Munitions (document CCM/3), as well as other documents listed in Annex III and attached at Annex IV.

16. The Conference met in plenary on Wednesday 28 May and agreed to adopt the text.

17. The Conference met in plenary again on Friday 30 May at 10.00 am and adopted the text of the Convention on Cluster Munitions as set out in document CCM/77 (attached at Part II of the Final Document).

18. The Conference expressed deep gratitude to the chairpersons and co-chairs of all the conferences that have constituted the Oslo Process, the United Nations, the ICRC and the Cluster Munition Coalition for their efforts that led to the adoption of the Convention on Cluster Munitions.

19. The Conference invited the Secretary-General of the United Nations to prepare authentic Arabic, Chinese and Russian texts of the Convention on Cluster Munitions, as adopted at Dublin on 30 May 2008. Once the authentic Arabic, Chinese and Russian texts are prepared, the Conference agreed that they should be circulated to all States. The original Convention, in the six authentic languages, will be established by the Secretary-General of the United Nations, and the Secretary-General or his representative shall be invited by the Government of Norway to open the Convention for signature in Oslo on 3 December 2008. All costs related to the preparation of the authentic Arabic, Chinese and Russian texts shall be covered by the Government of Ireland.

20. The Conference invited all States to consider their adherence to the Convention on Cluster Munitions as a matter of priority.

21. The Conference adopted this Procedural Report and decided that the President shall report to the next session of the General Assembly of the United Nations on the outcome of the Conference.

Annex I

AGENDA

(as adopted at the first plenary meeting on 19 May 2008)

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/51

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Agenda

1. Opening of the Conference by the Secretary-General
2. Election of the President
3. Adoption of the Agenda
4. Adoption of the Rules of Procedure
5. Election of Vice-Presidents
6. Organisation of work
7. Convention on Cluster Munitions
8. Closure of Conference

Annex II

RULES OF PROCEDURE

(as adopted at the first plenary meeting on 19 May 2008)

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/52

19 May 2008
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DUBLIN 19 – 30 MAY 2008

Rules of Procedure

19 May 2008

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CLUSTER MUNITIONS CONVENTION

DUBLIN MAY 2008

RULES OF PROCEDURE

CHAPTER I

Participation

Rule 1 Participation

1. States that have subscribed to the Wellington Declaration of 22 February 2008, on that date or subsequently, shall be invited to participate in the Conference. Other States that have been invited by the Government of Ireland may attend the Conference as observers.
2. The Secretary-General of the United Nations, the International Committee of the Red Cross, the United Nations Development Programme and other relevant United Nations programmes and agencies, the International Federation of Red Cross and Red Crescent Societies, regional intergovernmental organisations and the Cluster Munition Coalition may attend the Conference as observers.
3. Other organisations that have been invited by the Government of Ireland may attend the Conference as observers.

CHAPTER II

Representation and credentials

Rule 2

Composition of delegations

The delegation of each State participating in the Conference shall consist of a head of delegation and such other accredited representatives, alternate representatives and advisers as may be required.

Rule 3

Alternates and advisers

The head of delegation may designate an alternate representative or an adviser to act as a representative.

Rule 4

Submission of credentials

The credentials of representatives and the names of alternate representatives and advisers shall be submitted early to the Executive Secretary of the Conference and, if possible, not later than 24 hours after the opening of the Conference. Any later change in the composition of delegations shall also be submitted to the Executive Secretary. The credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs. The Executive Secretary shall report to the Conference on the submission of credentials if it so requests.

Rule 5

If an objection is raised against the participation of a delegation, such objection shall be considered by the General Committee, whose report thereon shall be submitted to the Conference.

Rule 6

Pending a decision of the Conference regarding an objection against the participation of a delegation, the latter shall be entitled to participate provisionally in the Conference with the same rights as other participating delegations.

CHAPTER III

Officers

Rule 7 Elections

The Conference shall elect a President and eight Vice-Presidents. The Conference may also elect such other officers as it deems necessary for the performance of its functions.

Rule 8 General powers of the President

1. In addition to exercising the powers conferred upon him or her elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each such meeting, direct the discussion, ensure observance of these rules, accord the right to speak, promote the achievement of general agreement, put questions to the vote and announce decisions. The President shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, the adjournment or the closure of the debate and the suspension or the adjournment of a meeting.
2. The President, in the exercise of his or her functions, remains under the authority of the Conference.

Rule 9 Acting President

1. If the President finds it necessary to be absent from a meeting or any part thereof he or she shall designate a Vice-President to take his or her place.
2. A Vice-President acting as President shall have the powers and duties of the President.

Rule 10 Replacement of the President

If the President is unable to perform his or her functions a new President shall be elected.

Rule 11
Voting rights of the President

The President, or a Vice-President acting as President, shall not vote in the Conference, but shall appoint another member of his or her delegation to vote in his or her place.

CHAPTER IV

General Committee

Rule 12
Composition

There shall be a General Committee consisting of the President and Vice-Presidents of the Conference. The President, or in his or her absence one of the Vice-Presidents designated by him or her, shall serve as Chairman of the General Committee.

Rule 13
Substitute members

If the President or a Vice-President finds it necessary to be absent during a meeting of the General Committee, he or she may designate a member of his or her delegation to sit and vote in the Committee.

Rule 14
Functions

The General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the coordination of its work. It shall also exercise the powers conferred upon it by rule 36.

CHAPTER V

Secretariat

Rule 15
Duties of the Secretary-General

1. The Secretary-General, designated by the Government of Ireland, shall act in that capacity in all meetings of the Conference and its subsidiary bodies.
2. The Secretary-General may designate a member of the Secretariat to act in his or her place at these meetings.
3. The Secretary-General shall appoint an Executive Secretary of the Conference and shall provide and direct the staff required by the Conference and its subsidiary bodies.

Rule 16
Duties of the secretariat

The secretariat of the Conference shall, in accordance with these rules:

- (a) Interpret speeches made at meetings;
- (b) Receive, translate, reproduce and distribute the documents of the Conference;
- (c) Publish and circulate the official documents of the Conference;
- (d) Prepare and circulate records of public meetings;
- (e) Make and arrange for the keeping of sound recordings of meetings;
- (f) Arrange for the custody and preservation of the documents of the Conference in the archives of the Government of Ireland; and
- (g) Generally perform all other work that the Conference may require.

Rule 17
Statements by the secretariat

The Secretary-General or any other member of the staff of the secretariat who may be designated for that purpose may, at any time, make either oral or written statements concerning any question under consideration.

CHAPTER VI

Opening of the Conference

Rule 18
Temporary President

The Secretary-General shall open the first meeting of the Conference and preside until the Conference has elected its President.

Rule 19
Decisions concerning organisation

At its first meeting the Conference shall move to:

- (a) Elect its President;
- (b) Adopt its agenda, the draft of which shall, until such adoption, be the provisional agenda of the Conference;
- (c) Adopt its rules of procedure, the draft of which shall, until such adoption, be the provisional rules of procedure of the Conference;
- (d) Elect its other officers; and
- (e) Decide on the organisation of its work.

CHAPTER VII

Conduct of business

Rule 20 *Quorum*

The presence of representatives of twenty five participating States shall be required for any decision to be taken.

Rule 21 *Speeches*

No one may address the Conference without having previously obtained the permission of the President. Subject to rules 22, 23 and 26 to 28, the President shall call upon speakers in the order in which they signify their desire to speak. The secretariat shall be in charge of drawing up a list of speakers. The President may call a speaker to order if his or her remarks are not relevant to the subject under discussion.

Rule 22 *Precedence*

The chairman or an officer of a committee or the representative of a working group may be accorded precedence for the purpose of explaining the conclusions arrived at by that committee or working group.

Rule 23 *Points of order*

During the discussion of any matter, a representative may at any time raise a point of order which shall be decided immediately by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the representatives present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

Rule 24 *Closing of the list of speakers*

During the course of a debate, the President may announce the list of speakers and, with the consent of the Conference, declare the list closed.

Rule 25 *Right of reply*

Notwithstanding rule 24, the President may accord the right of reply to any representative who requests it.

Rule 26
Adjournment of debate

A representative may at any time move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two representatives may speak in favour of, and two against, the adjournment, after which the motion shall, subject to rule 29, be put immediately to the vote.

Rule 27
Closure of debate

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his or her wish to speak. Permission to speak on the motion shall be accorded only to two speakers opposing the closure, after which the motion shall, subject to rule 29, be put immediately to the vote.

Rule 28
Suspension or adjournment of the meeting

Subject to rule 40, a representative may at any time move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall, subject to rule 29, be put immediately to the vote.

Rule 29
Order of motions

Subject to rule 23, the motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate on the question under discussion;
- (d) To close the debate on the question under discussion.

Rule 30
Basic proposal

The draft Cluster Munitions Convention, dated 21 January 2008, shall constitute the basic proposal for consideration by the Conference.

Rule 31
Other proposals

Other proposals shall normally be submitted in writing to the Executive Secretary, who shall circulate copies to all delegations. As a general rule, no proposal shall be considered at any meeting of the Conference unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The President may, however, permit the consideration of amendments, even though these amendments have not been circulated or have only been circulated on the same day.

Rule 32
Withdrawal of proposals and motions

A proposal or a motion may be withdrawn by its proposer at any time before a decision on it has been taken, provided that it has not been amended. A proposal or a motion that has thus been withdrawn may be reintroduced by any representative.

Rule 33
Decisions on competence

Subject to rules 23 and 29, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal submitted to it shall be put to the vote before the matter is discussed or a decision is taken on the proposal in question.

Rule 34
Reconsideration of proposals

When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be put immediately to the vote.

Rule 35
Invitation to Technical Advisers

The Conference may invite to one or more of its meetings any person whose technical advice it considers useful for its work.

CHAPTER VIII

Decision-Making

Rule 36
General agreement

1. The Conference shall make its best endeavours to ensure that the work of the Conference is accomplished by general agreement.
2. If, in the consideration of any matter of substance, all feasible efforts to reach general agreement have failed, the President of the Conference shall consult the General Committee and recommend the steps to be taken, which may include the matter being put to the vote.

Rule 37
Voting rights

Each State participating in the Conference shall have one vote.

Rule 38
Majority required

1. Subject to rule 36, decisions of the Conference on all matters of substance shall be taken by a two-thirds majority of the representatives present and voting.
2. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting.
3. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the representatives present and voting.
4. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

Rule 39
Meaning of the expression "representatives present and voting"

For the purpose of these rules, the phrase "representatives present and voting" means representatives present and casting an affirmative or negative vote. Representatives who abstain from voting shall be considered as not voting.

Rule 40
Method of voting

Except as provided in rule 47, the Conference shall normally vote by show of hands or by standing, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States participating in the Conference, beginning with the delegation whose name is drawn by lot by the President. The name of each State shall be called in all roll-calls and its representative shall reply "yes", "no" or "abstention".

Rule 41
Conduct during voting

The President shall announce the commencement of voting, after which no representative shall be permitted to intervene until the result of the vote has been announced, except on a point of order in connection with the process of voting.

Rule 42
Explanation of vote

Representatives may make brief statements, consisting solely of explanations of their votes, before the voting has commenced or after the voting has been completed. The President may limit the time to be allowed for such explanations. The representative of a State sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Rule 43
Division of proposals

A representative may move that parts of a proposal be decided on separately. If a representative objects, a decision shall be taken on the motion for division. Permission to speak on the motion shall be accorded only to two representatives in favour of and to two opposing the division. If the motion is carried, those parts of the proposal that are subsequently approved shall be put to the Conference for decision as a whole. If all operative parts of the proposal have been rejected, the proposal shall be considered to have been rejected as a whole.

Rule 44
Amendments

1. A proposal is considered an amendment to another proposal if it merely adds to, deletes from or revises part of that proposal.
2. Unless specified otherwise, the word “proposal” in these rules shall be considered as including amendments.

Rule 45
Decisions on amendments

When an amendment is moved to a proposal, the amendment shall be decided on first. When two or more amendments are moved to a proposal, the Conference shall first decide on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom and so on until all the amendments have been decided on. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to a decision. If one or more amendments are adopted, a decision shall then be taken on the amended proposal.

Rule 46
Decisions on proposals

1. If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, decide on the proposals in the order in which they were submitted. The Conference may, after each decision on a proposal, decide whether to take a decision on the next proposal.
2. Revised proposals shall be decided on in the order in which the original proposals were submitted, unless the revision substantially departs from the original proposal. In that case, the original proposal shall be considered as withdrawn and the revised proposal shall be treated as a new proposal.
3. A motion requiring that no decision be taken on a proposal shall be put to a decision before a decision is taken on the proposal in question.

Rule 47
Elections

All elections shall be held by secret ballot unless otherwise decided by the Conference.

Rule 48
Elections – one elective place to be filled

1. If, when one person or one delegation is to be elected, no candidate obtains in the first ballot a majority of the representatives present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.
2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 49
Elections – two or more elective places to be filled

1. When two or more elective places are to be filled at one time under the same conditions, those candidates, in a number not exceeding the number of such places, obtaining in the first ballot a majority of the votes of the representatives present and voting and the largest number of votes shall be elected.
2. If the number of candidates obtaining such majority is less than the number of places to be filled, additional ballots shall be held to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to candidates who obtained the greatest number of votes in the third unrestricted ballot, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

CHAPTER IX

Subsidiary Bodies

Rule 50 Committee of the Whole

The Conference shall establish a Committee of the Whole, the Chairman of which shall be the President of the Conference. If the Chairman finds it necessary to be absent from a meeting of the Committee or any part thereof he shall designate a Vice-President of the Conference to take his or her place.

Rule 51 Other Subsidiary Bodies

The Conference may establish such other committees and working groups as it considers necessary.

Rule 52 Officers

Except as otherwise provided in rule 7, each subsidiary body shall elect its own officers.

Rule 53 Officers, conduct of business and voting

The rules contained in chapters III, VII and VIII (except rule 36) above shall be applicable, *mutatis mutandis*, to the proceedings of subsidiary bodies, except that:

- (a) The Chairman of the General Committee may exercise the right to vote; and
- (b) Decisions shall be taken by a majority of the representatives present and voting, except that the reconsideration of a proposal shall require the majority established by rule 34.

CHAPTER X

Languages and records

Rule 54 Languages of the Conference

English, French and Spanish shall be the languages of the Conference.

Rule 55 Interpretation

1. Speeches made in a language of the Conference at meetings of the Conference or of the Committee of the Whole shall be interpreted into the other such languages.

2. A representative may speak in a language other than a language of the Conference if the delegation concerned provides for interpretation into one such language.

Rule 56
Languages of official documents

Official documents of the Conference shall be made available in the languages of the Conference.

Rule 57
Sound recordings of meetings

The secretariat shall make sound recordings of meetings of the Conference and the Committee of the Whole. Such recordings shall be made of meetings of other committees when the committee concerned so decides.

CHAPTER XI

Public and private meetings

Rule 58
Plenary meetings and meetings of the Committee of the Whole

The plenary meetings of the Conference and the meetings of the Committee of the Whole shall be held in public unless the body concerned decides otherwise. All decisions taken by the plenary of the Conference at a private meeting shall be announced at an early public meeting of the plenary.

Rule 59
Meetings of other subsidiary bodies

As a general rule, meetings of other subsidiary bodies shall be held in private.

CHAPTER XII

Amendments to the Rules of Procedure

Rule 60
Method of amendment

These Rules of Procedure may be amended by a decision of the Conference taken by a two-thirds majority of the representatives present and voting.

Annex III

LIST OF DOCUMENTS OF THE DIPLOMATIC CONFERENCE

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

30 May 2008

DUBLIN 19 – 30 MAY 2008

Conference Documents

Number	Title
CCM/1	Draft Agenda
CCM/2	Draft Rules of Procedure
CCM/3	Draft Convention on Cluster Munitions
CCM/4	Proposal by Ireland for the amendment of the Preamble
CCM/5	Proposal by France for the amendment of the Preamble
CCM/6	Proposal by the United Kingdom for the amendment of the Preamble
CCM/7	Proposal by Lesotho for the amendment of the Preamble
CCM/8	Proposal by Indonesia for the amendment of the Preamble
CCM/9	Proposal by Mozambique for the amendment of the Preamble
CCM/10	Proposal by Japan for the amendment of Article 1
CCM/11	Proposal by France for the amendment of Article 1
CCM/12	Proposal by Switzerland for the amendment of Article 1
CCM/13	Proposal by Germany, supported by Denmark, France, Italy, Slovakia, Spain, the Czech Republic and the United Kingdom, for the amendment of Article 1
CCM/14	Proposal by the United Kingdom for the amendment of Article 1
CCM/15	Proposal by Ireland for the amendment of Article 1
CCM/16	Proposal by France for the amendment of Article 1
CCM/17	Comments by Australia, Canada, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands and the United Kingdom concerning elements for Definitions
CCM/18	Proposal by Japan for the amendment of Article 2
CCM/19	Proposal by Germany for the amendment of Article 2
CCM/20	Proposal by France for the amendment of Article 2
CCM/21	Proposal by Switzerland for the amendment of Article 2
CCM/22	Proposal by France and Germany for the amendment of Article 2
CCM/23	Proposal by the United Kingdom for the amendment of Article 2
CCM/24	Proposal by Peru for the amendment of Article 2
CCM/25	Proposal by Ireland for the amendment of Article 2
CCM/26	Proposal by Sweden for the amendment of Article 2
CCM/27	Proposal by Indonesia for the amendment of Article 2
CCM/28	Proposal by Australia, Denmark, Finland, France, Germany, Italy, Japan, Slovakia, Sweden, Switzerland and the United Kingdom for the amendment of Article 3
CCM/29	Proposal by United Kingdom for the amendment of Article 3
CCM/30	Proposal by Peru for the amendment of Article 3
CCM/31	Proposal by Ireland for the amendment of Article 4
CCM/32	Proposal by France and Germany for the amendment of Article 4
CCM/33	Proposal by the United Kingdom for the amendment of Article 4

CCM/34	Proposal by Italy for the amendment of Article 4
CCM/35	Proposal by Switzerland for the amendment of Article 5
CCM/36	Proposal by the United Kingdom for the amendment of Article 5
CCM/37	Proposal by Denmark, France, Germany and Sweden for the amendment of Article 6
CCM/38	Proposal by the United Kingdom for the amendment of Article 6
CCM/39	Proposal by Italy for the amendment of Article 6
CCM/40	Proposal by Australia, Denmark, France, Germany, Italy, Sweden, Switzerland and the United Kingdom for the amendment of Article 7
CCM/41	Proposal by the United Kingdom for the amendment of Article 7
CCM/42	Proposal by the United Kingdom for the amendment of Article 8
CCM/43	Proposal by the United Kingdom for the amendment of Article 10
CCM/44	Proposal by the United Kingdom for the amendment of Article 14
CCM/45	Proposal by the United Kingdom for amendment of Article 17
CCM/46	Proposal by Germany for the amendment of Article 18
CCM/47	Proposal by France and Germany for additional text
CCM/48	Proposal by Australia, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands and the United Kingdom for additional text
CCM/48/Corr.	Proposal by Australia, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands and the United Kingdom for additional text
CCM/49	Proposal by Canada for additional text - <i>WITHDRAWN</i>
CCM/50	Proposal by Switzerland for additional text
CCM/51	Agenda
CCM/52	Rules of Procedure
CCM/53	Proposal by Indonesia for the amendment of the Preamble
CCM/54	Proposal by Indonesia for the amendment of Article 1
CCM/55	Proposal by Lao PDR for the amendment of Article 4(7)
CCM/56	Proposal by Philippines for additional text to Article 1
CCM/57	Proposal by Philippines for the amendment of Article 2
CCM/58	Proposal by Philippines for the amendment of Article 5
CCM/59	Proposal by Philippines for the amendment of Article 6
CCM/60	Proposal by Philippines for the amendment of Article 9
CCM/61	Proposal by Philippines for the amendment of Article 13
CCM/62	Proposal by Hungary for the amendment of the title to the Convention
CCM/63	Proposal by Slovakia for the amendment of Article 1
CCM/64	Proposal by Slovakia for the amendment of Article 2
CCM/65	Proposal by Slovakia for the amendment of Article 3
CCM/66	Proposal by Slovakia for additional text (Article 18bis)
CCM/67	Proposal by Spain for the amendment of Article 2f
CCM/68	Proposal by the Czech Republic for the amendment of Article 2
CCM/69	Proposal by Morocco, supported by Senegal and Mauritania, for the amendment of the Proposal by Germany, supported by Denmark, France, Italy, Slovakia, Spain, the Czech Republic and the United Kingdom for the amendment of Article 1
CCM/70	Proposal by Argentina, Ecuador, Guatemala, Uruguay, Dominican Republic, Mexico, Nicaragua, Panama, Peru, Costa Rica, Chile, Honduras, Zambia and Guinea for the amendment of Article 5
CCM/71	Proposal by Argentina, Costa Rica, Ecuador, Guatemala, Lebanon, Mexico, Palau and Uruguay for the amendment of Article 2
CCM/72	Proposal by Norway for the amendment of Article 2
CCM/73	Proposal by Norway for the amendment of Article 2
CCM/74	Proposal by Canada for the amendment of Article 2
CCM/75	Proposal by the United Kingdom for the amendment of Article 2
CCM/76	Proposal by Spain for the amendment of Article 2
CCM/77	Convention on Cluster Munitions
CCM/78	Final Document

CCM/PT/1	Presidency Text – Article 11
CCM/PT/2	Presidency Text – Article 12
CCM/PT/3	Presidency Text – Article 13
CCM/PT/4	Presidency Text – Article 15
CCM/PT/5	Presidency Text – Article 16
CCM/PT/6	Presidency Text – Article 21
CCM/PT/7	Presidency Text – Article 22
CCM/PT/8	Presidency Text – Article 9
CCM/PT/9	Presidency Text – Article 10
CCM/PT/10	Presidency Text – Article 14
CCM/PT/11	Presidency Text – Article 20
CCM/PT/12	Presidency Text – Victim Assistance
CCM/PT/13	Presidency Text – Article 3
CCM/PT/13/Corr	Presidency Text – Article 3
CCM/PT/14	Presidency Text – Article 8
CCM/PT/15	Presidency Paper – draft Convention on Cluster Munitions
CCM/INF/1	List of Delegates
CCM/CRP/1	Paper by Ethiopia
CCM/CRP/2	Statement by Iceland
CCM/SR/1	Summary Records for the Plenary 19 May 2008, a.m.
CCM/SR/2	Summary Records for the Plenary 19 May 2008, p.m.
CCM/SR/3	Summary Records for the Plenary 28 May 2008, p.m.
CCM/SR/4	Summary Records for the Plenary 30 May 2008, a.m.
CCM/CW/SR/1	Summary Records for the Committee of the Whole, 19 May 2008, p.m.
CCM/CW/SR/2	Summary Records for the Committee of the Whole 20 May 2008, a.m.
CCM/CW/SR/3	Summary Records for the Committee of the Whole 20 May 2008, p.m.
CCM/CW/SR/4	Summary Records for the Committee of the Whole 21 May 2008, a.m.
CCM/CW/SR/5	Summary Records for the Committee of the Whole 21 May 2008, p.m.
CCM/CW/SR/6	Summary Records for the Committee of the Whole 22 May 2008, a.m.
CCM/CW/SR/7	Summary Records for the Committee of the Whole 22 May 2008, p.m.
CCM/CW/SR/8	Summary Records for the Committee of the Whole 23 May 2008, a.m.
CCM/CW/SR/9	Summary Records for the Committee of the Whole 23 May 2008, p.m.
CCM/CW/SR/10	Summary Records for the Committee of the Whole 26 May 2008, a.m.
CCM/CW/SR/11	Summary Records for the Committee of the Whole 26 May 2008, p.m.
CCM/CW/SR/12	Summary Records for the Committee of the Whole 27 May 2008, a.m.
CCM/CW/SR/13	Summary Records for the Committee of the Whole 27 May 2008, p.m.
CCM/CW/SR/14	Summary Records for the Committee of the Whole 27 May 2008, p.m.
CCM/CW/SR/15	Summary Records for the Committee of the Whole 28 May 2008, a.m.
CCM/CW/SR/16	Summary Records for the Committee of the Whole 28 May 2008, p.m.

Annex IV

DOCUMENTS OF THE DIPLOMATIC CONFERENCE
(not otherwise reproduced elsewhere in the Final Document)

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/1
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Draft Agenda

1. Opening of the Conference by the Secretary-General
2. Election of the President
3. Adoption of the Agenda
4. Adoption of the Rules of Procedure
5. Election of Vice-Presidents
6. Organisation of work
7. Convention on Cluster Munitions
8. Closure of Conference

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/2
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Draft Rules of Procedure

21 February 2008

**DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A
CLUSTER MUNITIONS CONVENTION**

DUBLIN MAY 2008

DRAFT RULES OF PROCEDURE

CHAPTER I

Participation

*Rule 1
Participation*

1. States that have subscribed to the Wellington Declaration of 22 February 2008, on that date or subsequently, shall be invited to participate in the Conference. Other States that have been invited by the Government of Ireland may attend the Conference as observers.
2. The Secretary-General of the United Nations, the International Committee of the Red Cross, the United Nations Development Programme and other relevant United Nations programmes and agencies, the International Federation of Red Cross and Red Crescent Societies, regional intergovernmental organisations and the Cluster Munition Coalition may attend the Conference as observers.
3. Other organisations that have been invited by the Government of Ireland may attend the Conference as observers.

CHAPTER II

Representation and credentials

Rule 2

Composition of delegations

The delegation of each State participating in the Conference shall consist of a head of delegation and such other accredited representatives, alternate representatives and advisers as may be required.

Rule 3

Alternates and advisers

The head of delegation may designate an alternate representative or an adviser to act as a representative.

Rule 4

Submission of credentials

The credentials of representatives and the names of alternate representatives and advisers shall be submitted early to the Executive Secretary of the Conference and, if possible, not later than 24 hours after the opening of the Conference. Any later change in the composition of delegations shall also be submitted to the Executive Secretary. The credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs. The Executive Secretary shall report to the Conference on the submission of credentials if it so requests.

Rule 5

If an objection is raised against the participation of a delegation, such objection shall be considered by the General Committee, whose report thereon shall be submitted to the Conference.

Rule 6

Pending a decision of the Conference regarding an objection against the participation of a delegation, the latter shall be entitled to participate provisionally in the Conference with the same rights as other participating delegations.

CHAPTER III

Officers

Rule 7

Elections

The Conference shall elect a President and eight Vice-Presidents. The Conference may also elect such other officers as it deems necessary for the performance of its functions.

Rule 8
General powers of the President

1. In addition to exercising the powers conferred upon him or her elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each such meeting, direct the discussion, ensure observance of these rules, accord the right to speak, promote the achievement of general agreement, put questions to the vote and announce decisions. The President shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, the adjournment or the closure of the debate and the suspension or the adjournment of a meeting.
2. The President, in the exercise of his or her functions, remains under the authority of the Conference.

Rule 9
Acting President

1. If the President finds it necessary to be absent from a meeting or any part thereof he or she shall designate a Vice-President to take his or her place.
2. A Vice-President acting as President shall have the powers and duties of the President.

Rule 10
Replacement of the President

If the President is unable to perform his or her functions a new President shall be elected.

Rule 11
Voting rights of the President

The President, or a Vice-President acting as President, shall not vote in the Conference, but shall appoint another member of his or her delegation to vote in his or her place.

CHAPTER IV

General Committee

Rule 12 Composition

There shall be a General Committee consisting of the President and Vice-Presidents of the Conference. The President, or in his or her absence one of the Vice-Presidents designated by him or her, shall serve as Chairman of the General Committee.

Rule 13 Substitute members

If the President or a Vice-President finds it necessary to be absent during a meeting of the General Committee, he or she may designate a member of his or her delegation to sit and vote in the Committee.

Rule 14 Functions

The General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the coordination of its work. It shall also exercise the powers conferred upon it by rule 36.

CHAPTER V

Secretariat

Rule 15 Duties of the Secretary-General

1. The Secretary-General, designated by the Government of Ireland, shall act in that capacity in all meetings of the Conference and its subsidiary bodies.
2. The Secretary-General may designate a member of the Secretariat to act in his or her place at these meetings.
3. The Secretary-General shall appoint an Executive Secretary of the Conference and shall provide and direct the staff required by the Conference and its subsidiary bodies.

Rule 16 Duties of the secretariat

The secretariat of the Conference shall, in accordance with these rules:

- (a) Interpret speeches made at meetings;
- (b) Receive, translate, reproduce and distribute the documents of the Conference;
- (c) Publish and circulate the official documents of the Conference;

- (d) Prepare and circulate records of public meetings;
- (e) Make and arrange for the keeping of sound recordings of meetings;
- (f) Arrange for the custody and preservation of the documents of the Conference in the archives of the Government of Ireland; and
- (g) Generally perform all other work that the Conference may require.

Rule 17
Statements by the secretariat

The Secretary-General or any other member of the staff of the secretariat who may be designated for that purpose may, at any time, make either oral or written statements concerning any question under consideration.

CHAPTER VI

Opening of the Conference

Rule 18
Temporary President

The Secretary-General shall open the first meeting of the Conference and preside until the Conference has elected its President.

Rule 19
Decisions concerning organisation

At its first meeting the Conference shall move to:

- (a) Elect its President;
- (b) Adopt its agenda, the draft of which shall, until such adoption, be the provisional agenda of the Conference;
- (c) Adopt its rules of procedure, the draft of which shall, until such adoption, be the provisional rules of procedure of the Conference;
- (d) Elect its other officers; and
- (e) Decide on the organisation of its work.

CHAPTER VII

Conduct of business

Rule 20
Quorum

The presence of representatives of twenty five participating States shall be required for any decision to be taken.

Rule 21
Speeches

No one may address the Conference without having previously obtained the permission of the President. Subject to rules 22, 23 and 26 to 28, the President shall

call upon speakers in the order in which they signify their desire to speak. The secretariat shall be in charge of drawing up a list of speakers. The President may call a speaker to order if his or her remarks are not relevant to the subject under discussion.

Rule 22
Precedence

The chairman or an officer of a committee or the representative of a working group may be accorded precedence for the purpose of explaining the conclusions arrived at by that committee or working group.

Rule 23
Points of order

During the discussion of any matter, a representative may at any time raise a point of order which shall be decided immediately by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the representatives present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

Rule 24
Closing of the list of speakers

During the course of a debate, the President may announce the list of speakers and, with the consent of the Conference, declare the list closed.

Rule 25
Right of reply

Notwithstanding rule 24, the President may accord the right of reply to any representative who requests it.

Rule 26
Adjournment of debate

A representative may at any time move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two representatives may speak in favour of, and two against, the adjournment, after which the motion shall, subject to rule 29, be put immediately to the vote.

Rule 27
Closure of debate

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his or her wish to speak. Permission to speak on the motion shall be accorded only to two speakers

opposing the closure, after which the motion shall, subject to rule 29, be put immediately to the vote.

Rule 28
Suspension or adjournment of the meeting

Subject to rule 40, a representative may at any time move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall, subject to rule 29, be put immediately to the vote.

Rule 29
Order of motions

Subject to rule 23, the motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate on the question under discussion;
- (d) To close the debate on the question under discussion.

Rule 30
Basic proposal

The draft Cluster Munitions Convention, dated 21 January 2008, shall constitute the basic proposal for consideration by the Conference.

Rule 31
Other proposals

Other proposals shall normally be submitted in writing to the Executive Secretary, who shall circulate copies to all delegations. As a general rule, no proposal shall be considered at any meeting of the Conference unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The President may, however, permit the consideration of amendments, even though these amendments have not been circulated or have only been circulated on the same day.

Rule 32
Withdrawal of proposals and motions

A proposal or a motion may be withdrawn by its proposer at any time before a decision on it has been taken, provided that it has not been amended. A proposal or a motion that has thus been withdrawn may be reintroduced by any representative.

Rule 33
Decisions on competence

Subject to rules 23 and 29, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal submitted to it shall be put to the vote before the matter is discussed or a decision is taken on the proposal in question.

Rule 34
Reconsideration of proposals

When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be put immediately to the vote.

Rule 35
Invitation to Technical Advisers

The Conference may invite to one or more of its meetings any person whose technical advice it considers useful for its work.

CHAPTER VIII

Decision-Making

Rule 36
General agreement

1. The Conference shall make its best endeavours to ensure that the work of the Conference is accomplished by general agreement.
2. If, in the consideration of any matter of substance, all feasible efforts to reach general agreement have failed, the President of the Conference shall consult the General Committee and recommend the steps to be taken, which may include the matter being put to the vote.

Rule 37
Voting rights

Each State participating in the Conference shall have one vote.

Rule 38
Majority required

1. Subject to rule 36, decisions of the Conference on all matters of substance shall be taken by a two-thirds majority of the representatives present and voting.
2. Decisions of the Conference on matters of procedure shall be taken by a majority of the representatives present and voting.
3. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the representatives present and voting.

4. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

Rule 39

Meaning of the expression “representatives present and voting”

For the purpose of these rules, the phrase “representatives present and voting” means representatives present and casting an affirmative or negative vote. Representatives who abstain from voting shall be considered as not voting.

Rule 40

Method of voting

Except as provided in rule 47, the Conference shall normally vote by show of hands or by standing, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States participating in the Conference, beginning with the delegation whose name is drawn by lot by the President. The name of each State shall be called in all roll-calls and its representative shall reply “yes”, “no” or “abstention”.

Rule 41

Conduct during voting

The President shall announce the commencement of voting, after which no representative shall be permitted to intervene until the result of the vote has been announced, except on a point of order in connection with the process of voting.

Rule 42

Explanation of vote

Representatives may make brief statements, consisting solely of explanations of their votes, before the voting has commenced or after the voting has been completed. The President may limit the time to be allowed for such explanations. The representative of a State sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Rule 43

Division of proposals

A representative may move that parts of a proposal be decided on separately. If a representative objects, a decision shall be taken on the motion for division. Permission to speak on the motion shall be accorded only to two representatives in favour of and to two opposing the division. If the motion is carried, those parts of the proposal that are subsequently approved shall be put to the Conference for decision as a whole. If all operative parts of the proposal have been rejected, the proposal shall be considered to have been rejected as a whole.

Rule 44
Amendments

1. A proposal is considered an amendment to another proposal if it merely adds to, deletes from or revises part of that proposal.
2. Unless specified otherwise, the word “proposal” in these rules shall be considered as including amendments.

Rule 45
Decisions on amendments

When an amendment is moved to a proposal, the amendment shall be decided on first. When two or more amendments are moved to a proposal, the Conference shall first decide on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom and so on until all the amendments have been decided on. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to a decision. If one or more amendments are adopted, a decision shall then be taken on the amended proposal.

Rule 46
Decisions on proposals

1. If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, decide on the proposals in the order in which they were submitted. The Conference may, after each decision on a proposal, decide whether to take a decision on the next proposal.
2. Revised proposals shall be decided on in the order in which the original proposals were submitted, unless the revision substantially departs from the original proposal. In that case, the original proposal shall be considered as withdrawn and the revised proposal shall be treated as a new proposal.
3. A motion requiring that no decision be taken on a proposal shall be put to a decision before a decision is taken on the proposal in question.

Rule 47
Elections

All elections shall be held by secret ballot unless otherwise decided by the Conference.

Rule 48
Elections – one elective place to be filled

1. If, when one person or one delegation is to be elected, no candidate obtains in the first ballot a majority of the representatives present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken.

If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 49

Elections – two or more elective places to be filled

1. When two or more elective places are to be filled at one time under the same conditions, those candidates, in a number not exceeding the number of such places, obtaining in the first ballot a majority of the votes of the representatives present and voting and the largest number of votes shall be elected.

2. If the number of candidates obtaining such majority is less than the number of places to be filled, additional ballots shall be held to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to candidates who obtained the greatest number of votes in the third unrestricted ballot, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

CHAPTER IX

Subsidiary Bodies

Rule 50

Committee of the Whole

The Conference shall establish a Committee of the Whole, the Chairman of which shall be the President of the Conference. If the Chairman finds it necessary to be absent from a meeting of the Committee or any part thereof he shall designate a Vice-President of the Conference to take his or her place.

Rule 51

Other Subsidiary Bodies

The Conference may establish such other committees and working groups as it considers necessary.

Rule 52

Officers

Except as otherwise provided in rule 7, each subsidiary body shall elect its own officers.

Rule 53
Officers, conduct of business and voting

The rules contained in chapters III, VII and VIII (except rule 36) above shall be applicable, *mutatis mutandis*, to the proceedings of subsidiary bodies, except that:

- (a) The Chairman of the General Committee may exercise the right to vote; and
- (b) Decisions shall be taken by a majority of the representatives present and voting, except that the reconsideration of a proposal shall require the majority established by rule 34.

CHAPTER X

Languages and records

Rule 54
Languages of the Conference

English, French and Spanish shall be the languages of the Conference.

Rule 55
Interpretation

1. Speeches made in a language of the Conference at meetings of the Conference or of the Committee of the Whole shall be interpreted into the other such languages.
2. A representative may speak in a language other than a language of the Conference if the delegation concerned provides for interpretation into one such language.

Rule 56
Languages of official documents

Official documents of the Conference shall be made available in the languages of the Conference.

Rule 57
Sound recordings of meetings

The secretariat shall make sound recordings of meetings of the Conference and the Committee of the Whole. Such recordings shall be made of meetings of other committees when the committee concerned so decides.

CHAPTER XI

Public and private meetings

Rule 58

Plenary meetings and meetings of the Committee of the Whole

The plenary meetings of the Conference and the meetings of the Committee of the Whole shall be held in public unless the body concerned decides otherwise. All decisions taken by the plenary of the Conference at a private meeting shall be announced at an early public meeting of the plenary.

Rule 59

Meetings of other subsidiary bodies

As a general rule, meetings of other subsidiary bodies shall be held in private.

CHAPTER XII

Amendments to the Rules of Procedure

Rule 60

Method of amendment

These Rules of Procedure may be amended by a decision of the Conference taken by a two-thirds majority of the representatives present and voting.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/3
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Draft Convention on Cluster Munitions

21 January 2008

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to suffer most from armed conflict,

Determined to put an end for all time to the suffering and casualties caused by the use of cluster munitions that kill or maim innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, delay or prevent the return of refugees and internally displaced persons, and have other severe humanitarian consequences that can persist for many years after use,

Concerned that cluster munition remnants can undermine international efforts to build peace and security, as well as implementation of human rights and fundamental freedoms,

Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to assure their destruction,

Deeply concerned also at the dangers presented by the large stockpiles of cluster munitions retained for operational use in national inventories, and determined to ensure the speedy destruction of these stockpiles,

Determined to ensure the full realisation of the rights of victims of cluster munitions, and recognizing their inherent dignity,

Resolved to do their utmost in providing assistance for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need adequately to coordinate efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and resolved to avoid discrimination among victims of various types of weapons,

Welcoming the global support for the international norm prohibiting the use of anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the entry into force on 12 November 2006 of the Protocol on Explosive Remnants of War, annexed 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, and wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Welcoming furthermore the steps taken in recent years, both unilaterally and multilaterally, aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and recognizing the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which States *inter alia* committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and to establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities, clearance of contaminated areas, risk education and destruction of stockpiles,

Guided by the principle of international humanitarian law that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and in particular on the general rule that parties to a conflict must at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against military objectives only,

HAVE AGREED as follows:

Article 1

General obligations and scope of application

1. Each State Party undertakes never under any circumstances to:
 - (a) Use cluster munitions;
 - (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.

2. This Convention does not apply to “mines” as defined by the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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.

Article 2 *Definitions*

For the purposes of this Convention:

“**Cluster munition victims**” means persons who have suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their families and communities;

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) ...

“**Explosive sub-munitions**” means munitions that in order to perform their task separate from a parent munition and are designed to function by detonating an explosive charge prior to, on or after impact;

“**Unexploded cluster munitions**” means cluster munitions that have been primed, fused, armed, or otherwise prepared for use and which have been used. They may have been fired, dropped, launched or projected, and should have exploded but failed to do so. “Unexploded cluster munitions” includes both unexploded parent munitions and unexploded explosive sub-munitions;

“**Abandoned cluster munitions**” means cluster munitions that have not been used and that have been discarded or dumped, and that are no longer under the control of the party that discarded or dumped them. They may or may not have been prepared for use;

“**Cluster munition remnants**” means unexploded cluster munitions and abandoned cluster munitions;

“**Transfer**” means the physical movement of cluster munitions into or from national territory or the transfer of title to or control over cluster munitions, but does not include the transfer of territory containing cluster munition remnants.

Article 3
Storage and stockpile destruction

1. Each State Party undertakes to remove all cluster munitions from stockpiles of munitions retained for operational use and keep them in separate stockpiles for the purpose of destruction.
2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions under its jurisdiction or control as soon as possible but not later than six years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within that time period it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions for a period of up to ten years.
4. Each request shall contain:
 - (a) The duration of the proposed extension;
 - (b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article; and
 - (c) A plan for how and when stockpile destruction will be completed.
5. The meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.
6. Notwithstanding the provisions of Article 1 of this Convention the transfer of cluster munitions for the purpose of destruction is permitted.

Article 4
Clearance and destruction of cluster munition remnants

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction, of cluster munition remnants located in areas under its jurisdiction or control, as follows:
 - (a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention for that State Party, such clearance and destruction shall be completed as soon as possible but no later than 5 years from that date;
 - (b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible but no later than 5 years after such cluster munitions became cluster munition remnants.

2. In fulfilling the obligations set out in paragraph 1 of this Article, each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

- (a) Survey and assess the threat posed by cluster munition remnants;
- (b) Assess and prioritise needs and practicability in terms of marking, protection of civilians and clearance and destruction, take steps to mobilise resources and develop a national plan to carry out these activities;
- (c) Ensure that all cluster munition remnants located in areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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;
- (d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and
- (e) Conduct risk education to ensure awareness among civilians living in or around areas in which cluster munition remnants are located of the risks posed by such remnants.

3. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for it and have become cluster munition remnants located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter. In such cases, upon entry into force of this Convention for both States Parties, the former State Party shall provide, *inter alia*, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the UN system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants. Such assistance shall include information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within that time period it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants for a period of up to 5 years.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall contain:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the reasons for the proposed extension, including:
 - (i) The preparation and status of work conducted under national clearance and demining programmes;
 - (ii) The financial and technical means available to, and required by, the State Party for the clearance and destruction of all cluster munition remnants; and
 - (iii) Circumstances that impede the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control;
- (c) The humanitarian, social, economic, and environmental implications of the extension; and
- (d) Any other information relevant to the request for the proposed extension.

7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.

8. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

Article 5 *Victim Assistance*

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with international human rights law, adequately provide for their medical care and rehabilitation, psychological support and social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligation under paragraph 1 of this Article each State Party shall take into consideration relevant guidelines and good practices in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion.

Article 6 *International cooperation and assistance*

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.

2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions or on a bilateral basis.

3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of clearance equipment and related technological information for humanitarian purposes.

4. In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each State Party in a position to do so shall provide assistance for clearance of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance of cluster munition remnants and related activities.

5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritize needs and practical measures in terms of marking, risk education, protection of civilians and clearance and destruction as provided in Article 4.

6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State Party in a position to do so shall urgently provide emergency assistance to the affected State Party.

7. Each State Party in a position to do so shall provide assistance for medical care, rehabilitation and psychological support, social and economic inclusion of all cluster munition victims. Such assistance may be provided, *inter alia*, through the United Nations System, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organisations or on a bilateral basis.

8. Each State Party in a position to do so shall provide assistance to contribute to the economic and social recovery needed as a result of cluster munition use in affected States Parties.

9. Each State Party in a position to do so may contribute to relevant trust funds in order to facilitate the provision of assistance under this Article.

10. Each State Party may, with the purpose of developing a national action plan, request the United Nations, regional organisations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

- (a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
- (b) The financial, technological and human resources required for the implementation of the plan;
- (c) The time estimated as necessary to clear all cluster munition remnants located in areas under its jurisdiction or control;
- (d) Risk education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
- (e) Assistance to cluster munition victims; and
- (f) The relationship between the Government of the State Party concerned and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the plan.

11. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:

- (a) The national implementation measures referred to in Article 9 of this Convention;
- (b) The total of all stockpiled cluster munitions owned or possessed by it, or under its jurisdiction or control, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
- (c) To the extent possible, all other cluster munitions that are stockpiled on its territory;
- (d) The technical characteristics of each type of cluster munitions produced, to the extent known, and those currently owned or possessed by a State Party, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;
- (e) To the extent possible, the location of all areas that contain, or are suspected to contain, cluster munition remnants, under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munitions in each affected area and when they were used;
- (f) The status of programmes for the conversion or de-commissioning of production facilities for cluster munitions;
- (g) The status of programmes for the destruction, in accordance with Article 3 of this Convention, of cluster munitions, including details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;

- (h) The types and quantities of cluster munitions destroyed in accordance with Article 3 of this Convention, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;
- (i) Stockpiles discovered after reported completion of the programme referred to in paragraph 7(h) of this Article;
- (j) The types and quantities of all cluster munitions remnants cleared and destroyed in accordance with Article 4 of this Convention, to include a breakdown of the quantity of each type of cluster munitions remnants cleared and destroyed;
- (k) The measures taken to provide risk education and, in particular, an immediate and effective warning to civilians living in areas under its jurisdiction or control in which cluster munition remnants are located;
- (l) The measures taken in accordance with the provisions of Article 5 of this Convention adequately to provide for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions as well as to collect reliable relevant data; and
- (m) The name and contact details of the institutions mandated to provide information and to carry out the measures described in this paragraph.

2. The information provided in accordance with paragraph 1 of this Article shall be updated by the States Parties annually, covering the previous calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.

3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter

through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

5. Where a matter has been submitted to it pursuant to paragraph 3 of this Article the Meeting of the States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine the Meeting of the States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 5 of this Convention.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article the Meeting of States Parties may decide to adopt such other general procedures for clarification and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

Article 10

Settlement of disputes

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of the States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

Article 11
Meetings of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the interpretation, application or implementation of this Convention, including:
 - (a) The operation and status of this Convention;
 - (b) Matters arising from the reports submitted under the provisions of this Convention;
 - (c) International cooperation and assistance in accordance with Article 6 of this Convention;
 - (d) The development of technologies to clear cluster munition remnants;
 - (e) Submissions of States Parties under Articles 8 and 10 of this Convention; and
 - (f) Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The First Meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

3. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross and relevant non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

Article 12
Review Conferences

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:
 - (a) To review the operation and status of this Convention;
 - (b) To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11 of this Convention; and
 - (c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

3. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross and relevant non-governmental

organisations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

Article 13 *Amendments*

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notifies the Depositary no later than 30 days after its circulation that they support further consideration of the proposal, the Depositary shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross and relevant non-governmental organisations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.

3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties requests that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to the States Parties.

5. An amendment to this Convention shall enter into force for all States Parties to this Convention that have accepted it upon deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14 *Costs*

1. The costs of the Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

Article 15

Signature

This Convention, done at (...), on (...), shall be open for signature at (...), by all States from (...) until (...), and at the United Nations Headquarters in New York from (...) until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval of the Signatories.
2. It shall be open for accession by any State that has not signed the Convention.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 20th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 20th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18

Provisional application

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 1 of this Convention pending its entry into force.

Article 19

Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20

Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other

States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.

3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

Article 21
Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 22
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/4

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Ireland for the amendment of the Preamble

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to suffer most from armed conflict,

Determined to put an end for all time to the suffering and casualties caused by the use of cluster munitions that kill or maim innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, delay or prevent the return of refugees and internally displaced persons, and have other severe humanitarian consequences that can persist for many years after use,

Concerned that cluster munition remnants can undermine international efforts to build peace and security, as well as implementation of human rights and fundamental freedoms,

Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to assure their destruction,

Deeply concerned also at the dangers presented by the large stockpiles of cluster munitions retained for operational use in national inventories, and determined to ensure the speedy destruction of these stockpiles,

Determined to ensure the full realisation of the rights of victims of cluster munitions, and recognizing their inherent dignity,

Resolved to do their utmost in providing assistance for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need adequately to coordinate efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and resolved to avoid discrimination among victims of various types of weapons,

Welcoming the global support for the international norm prohibiting the use of anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use,

Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the entry into force on 12 November 2006 of the Protocol on Explosive Remnants of War, annexed 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, and wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Welcoming furthermore the steps taken in recent years, both unilaterally and multilaterally, aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and recognizing the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which States *inter alia* committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and to establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities, clearance of contaminated areas, risk education and destruction of stockpiles,

Emphasising the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalisation,

Basing themselves on the rules of international humanitarian law that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations only against military objectives, **that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,**

HAVE AGREED as follows:

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/5
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by France for the amendment of the Preamble

Reaffirming the purpose of the Convention as defined by the Declaration of the Oslo Conference on Cluster Munitions.....

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/6

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of the Preamble

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to suffer ~~most~~ from armed conflict,

Determined to put an end for all time to the suffering and casualties caused by the use of **those** cluster munitions that kill or maim innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, delay or prevent the return of refugees and internally displaced persons, and have other severe humanitarian consequences that can persist for many years after use,

Concerned that cluster munition remnants **might impact negatively on** international efforts to build peace and security, as well as implementation of human rights and fundamental freedoms,

Concerned also that large stockpiles of prohibited cluster munitions earmarked for destruction are stored carefully and destroyed in a timely manner to prevent them from causing humanitarian suffering,

Believing it necessary ~~to do their utmost~~ to contribute in an efficient and coordinated manner to resolving the challenge of removing cluster munition remnants ~~located throughout the world,~~ and to ensure their destruction,

~~*Deeply concerned* also at the dangers presented by the large stockpiles of cluster munitions retained for operational use in national inventories, and determined to ensure the speedy destruction of these stockpiles,~~

Determined to ensure the full realisation of the rights of victims of cluster munitions, and recognising their inherent dignity,

Resolved to ~~do their utmost in~~ providing assistance for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, inter-alia, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

~~*Mindful of the need adequately to coordinate efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and resolved to avoid discrimination among victims of various types of weapons,*~~

*Welcoming the **broad international** support for the international norm prohibiting the use of anti-personnel mines enshrined in the 1997 Convention on the Prohibition of the Use of Stockpiling, Production and Transfer of Anti-personnel mines and on their Destruction,*

Welcoming also the entry into force on 12 November 2006 of the Protocol on Explosive Remnants of War, annexed to the Convention on Prohibitions, Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects, and wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments.

*Welcoming furthermore the steps taken in recent years, both unilaterally and multilaterally aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of **certain** cluster munitions,*

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the ~~global~~ call for an end to civilian suffering caused by cluster munitions and recognising the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the cluster munition coalition and numerous other non-governmental organisations around the world,

Reaffirming the declaration of the Oslo Conference on cluster munitions, by which States inter-alia committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and to establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors ~~and their communities~~, clearance of contaminated areas, risk education and destruction of stockpiles,

Guided by the principle of international humanitarian law that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and in particular on the general rule that parties to a conflict must at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against the military objectives only,

HAVE AGREED as follows:

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/7

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Lesotho for the amendment of the Preamble

pp 2 *Determined* to put an end for all time to the suffering and casualties caused by the use of cluster munitions,

new pp3 *Aware/cognizant of other irreparable harm caused by the use of cluster munitions including to kill or maim innocent and defenceless civilians [and] especially women and children; obstruct economic development and reconstruction; delay or prevent the return of refugees and internally displaced persons and have other severe humanitarian consequences that can persist for many years after use,*

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/8

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Indonesia for the amendment of the Preamble

new pp “*Emphasizing the desirability of attracting the adherence of all States to the Convention, and determined to work strenuously towards the promotion of its universalisation in all relevant fora including, inter alia, the United Nations, the Conference on Disarmament, regional organisations, and groupings*”

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/9

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Mozambique for the amendment of the Preamble

Determined to put an end for all time to the suffering and casualties caused by the use of cluster munitions that kill or maim innocent and defenceless civilians and especially children, obstruct economic development and **post-war** reconstruction, delay or prevent the return of refugees and internally displaced persons, and have other severe humanitarian consequences that can persist for many years after use,

(new pp) *Wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,*

Concerned that cluster munition remnants can undermine **national and** international efforts to build peace and security, as well as implementation of human rights and fundamental freedoms,

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/10

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Japan for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - (a) Use cluster munitions;
 - (b) Develop, produce, otherwise acquire, stockpile, ~~retain~~, **own, possess** or transfer to anyone, directly or indirectly, cluster munitions; or
 - (c) Assist, encourage or induce anyone to ~~engage in any activity prohibited to a State Party under this Convention~~ develop, produce or otherwise acquire cluster munitions.

2. Any State Party may declare at the time of the deposit of its instruments of ratification, acceptance, approval or accession that, while implementing paragraph 1 of this Article, it will continue to use, only when strictly necessary, cluster munitions for a limited period of time not exceeding [x] years from the entry into force of this Convention for that State Party.

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2. In the event that a State Party determines that it cannot immediately comply with paragraph 1 (a) of this Article, it may declare at the time of the deposit of its instruments of ratification, acceptance, approval or accession that it will defer compliance with paragraph 1 (a) of this Article for a period not to exceed [X] years from the entry into force of this Convention for that State Party. During this period, a State Party may use cluster munitions only when strictly necessary.

3. This Convention does not apply to “mines” as defined by the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/11

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by France for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - a) Use cluster munitions **as defined in Article 2;**
 - b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions **as defined in Article 2;**
 - c) ...

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/12

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Switzerland for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - a) Use cluster munitions **as defined in Article 2;**
 - b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions **as defined in Article 2;**
 - c) ...

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/13

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Germany, supported by Denmark, France, Italy, Slovakia, Spain, the Czech Republic and the United Kingdom for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - (a) Use cluster munitions;
 - (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention. **This provision does not preclude the mere participation in the planning or the execution of operations, exercises or other military activities by the Armed Forces or by an individual national of a State Party to this Convention, conducted in combination with Armed Forces of States not Parties to this Convention which engage in activity prohibited under this Convention.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/14

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - a) **Use sub-munitions as defined in Article 2b;**
 - b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, **sub-munitions as defined in Article 2b;**
 - c) ~~Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.~~ **For the purposes of this Convention, Article 1 does not come in to force until [x] years after entry in to force of the Convention.**

2. This Convention does not apply to “mines” as defined in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/15

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Ireland for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - a) Use cluster munitions;
 - b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.

2. Dispensers, affixed to an aerial platform and designed to disperse or release explosive bomblets, are subject to the same provisions as cluster munitions

3. This Convention does not apply to mines as defined in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/16
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by France for the amendment of Article 1

(or to be included in an additional Article, for example Article 9 *ter*)

Nothing in this Convention shall be interpreted as in any way preventing military interoperability between States parties and non-States parties to the Convention.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/17

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**Comments by Australia, Canada, Denmark, Finland, France, Germany, Italy, Japan,
the Netherlands and the United Kingdom concerning elements for Definitions**

Definitions - alternative elements

The following weapon reliability and accuracy characteristics, either individually or in some combination, were posed by several States as being potential descriptors of those cluster munitions which do not cause unacceptable harm to civilians:

1. sensor fuzing (multiple or single) (point target discrimination) (deliver effects within a defined area);
2. fail-safe systems (self-destruct and self-neutralisation) (and self-deactivation) (mechanical and/or electronic based systems);
3. restrictions on the numbers of sub-munitions per cluster munition;
4. delivery by direct fire;
5. failure rates; and
6. accuracy (in terms of delivery of the cluster munition to the target area).

Several States also posed further consideration of:

1. other general reliability and accuracy considerations;
2. transition periods (for commencement of the primary prohibitions in Article 1); and
3. transition periods (for those munitions with a reliability of <1% and which possess failsafe systems.)

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/18
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Japan for the amendment of Article 2

For the purposes of this Convention:

...

“Cluster munition” means a munition that is designed to disperse or release **more than 10** explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects; or
- (c) **reliable cluster munitions or accurate cluster munitions.**

“Reliable” cluster munitions are those cluster munitions which contain explosive sub-munitions which are equipped either with self-destruction mechanism, self-neutralization mechanism or self-deactivating mechanism or those cluster munitions which cause cluster munition remnants at the rate of not more than one percent.

“Accurate” cluster munitions are those cluster munitions which are equipped with guidance system or otherwise effective only within a pre-defined area.

...

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/19

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Germany for the amendment of Article 2

For the purposes of this Convention:

....

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) a munition containing less than [x] explosive sub-munitions each designed to engage a point target within a pre-defined area and equipped with a self-destruct and self-deactivation mechanism; (new text)
(Note: “Point Target” is a target, which requires the accurate placement of bombs or fire. “Area Target” is a target, consisting of an area rather than a single point).
- (d)

“**Explosive sub-munitions**” means munitions that in order to perform their task separate from a parent munition and are designed to function by detonating an explosive charge prior to, on or after impact;

“Reliable” cluster munitions mean cluster munitions which contain explosive sub-munitions of a dud rate below one percent. (new text)

“Accurate” cluster munitions or explosive sub munitions are munitions which are effective only within a pre-defined target area. (new text)

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/20

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by France for the amendment of Article 2

For the purposes of this Convention,

(...)

“**Cluster Munition**” means a carrier/container which contains conventional explosive sub-munition: and is designed to eject, disperse or release conventional explosive sub-munitions.

It does not mean:

- (a) A munition or sub munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) A munition or sub munition designed to produce electrical, electronic or illuminating effects;
- (c) A munition containing less than [X] explosive sub munitions
- (d) Option 1: A munition designed to engage targets within a pre defined area in a reliable and accurate manner. (new text);
Option 2: A munition that fulfils a combination of precise criteria regarding its reliability and its accuracy;

“Carrier-container” means:

- (a) a conventional munition that may be artillery shell, air bomb, guided or un-guided missile or,
- (b) a dispenser, affixed to an aircraft, which is not designed to dispense direct-fire munitions,

“**Explosive sub-munitions**” means a conventional explosive munition which is designed to separate from a cluster munition and is designed to detonate on, prior to or after impact.

“Reliable” cluster munitions means cluster munitions which contain explosive sub munitions of a dud rate below one percent and/or equipped with a self safe mechanism.

“Accurate” cluster munitions or explosive sub munitions are munitions which are effective only within a pre-defined target area.

“Self safe mechanism” means self destruct or self neutralization or self de-activation mechanism

This definition shall be reviewed no latter than five years after the entry into force of the convention as provided under article 12.2. The meeting of the parties should at its first session adopt a program of work on the pending questions regarding the definition. The review process shall examine a wide range of views, including academic and civil society technical reports.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/21
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Switzerland for the amendment of Article 2

For the purposes of this Convention,

(...)

“Cluster Munition” means a carrier/container which contains explosive sub-munitions and is designed to disperse or release or eject these explosive sub-munitions.

It does not mean:

- (a) A munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) A munition or sub-munition designed to produce electrical, electronic or illuminating effects;
- (c) **A munition or sub-munition designed to engage a point target within a pre-defined area and contains a self-destruct, self-neutralization or self-deactivation mechanism;**

“Carrier-container” means:

- (a) **a conventional munition that may be artillery shell, air bomb, guided or un-guided missile or,**
- (b) **[OPTION 1] a dispenser, affixed, to an aircraft, which is designed to dispense multiple sub-munitions in a single act.**
- (b) **[OPTION 2] a dispenser, affixed to an aircraft, which is not designed to dispense direct-fire munitions.**

“Explosive sub-munition” means a conventional explosive munition which is designed to separate from a cluster munition and is designed to detonate on, prior to or after impact.

~~“Cluster munition victims” means persons who have suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their families and communities;~~

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/22

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by France and Germany for the amendment of Article 2

Alternative or additional definitions proposed for “cluster-munition remnants”:

“Unexploded sub-munition”¹ means explosive sub-munition that has been primed, fused, armed, or otherwise prepared for use and used in an armed conflict. It may have been fired, dropped, launched or projected and should have exploded but failed to do so.

“Abandoned explosive cluster-munition”² means explosive cluster-munition that has not been used during an armed conflict, that has been left behind or dumped by a party to an armed conflict and which is no longer under control of the party that left it behind. Abandoned explosive cluster-munitions may or may not have been primed, fused, armed or otherwise prepared for use.

“Explosive remnants of cluster munitions”³ means unexploded sub-munitions and abandoned explosive cluster-munitions.

“Existing explosive remnants of sub-munitions”⁴ means unexploded submunitions and abandoned explosive cluster-munitions that existed prior to the entry into force of this Convention for the State party on whose territory exists.

¹ Definition drawn from Protocol V, Article 2(2), with “unexploded ordnance” being replaced by “unexploded sub-munitions”.

² Definition drawn from Protocol V, Article 2(3), with “abandoned explosive ordnance” being replaced by “abandoned explosive sub-munitions”.

³ Definition drawn from Protocol V, Article 2(4), with “ERW” being replaced by “explosive remnants of cluster munitions”.

⁴ Definition drawn from Protocol V, Article 2(5). Such a definition would be needed for the purpose of the additional paragraph to Article 4 or separate additional Article on “Assistance with respect to existing explosive remnants of cluster munitions” (*cf.* CCM/47).

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/23

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 2

2.1. For the purposes of this Convention:

a. “Cluster munition” means a carrier-container which contains more than [x] conventional explosive sub-munitions and is designed to dispense conventional explosive sub-munitions over targets in a pre-defined area.

b. “Conventional Explosive Sub-munition” means a conventional explosive munition which is designed to separate from a cluster munition and which is designed to detonate on, prior to or after impact on a target.

2.2 For the purposes of this convention, we need to consider the elements and characteristics that should exempt a submunition from a prohibition within specified reliability and accuracy benchmarks, including:

a. Munitions which incorporate a failsafe system.

b. Munitions which are direct fire weapons or which incorporate systems designed to deliver effects within a pre-defined area or on point targets.

2.3. We continue to support the following types of munitions remaining as exemptions: those designed to dispense flares, smoke, pyrotechnics or chaff Smoke, flare, chaff or pyrotechnic munitions and those designed to produce electrical or electronic effects.

“Cluster Munition Victims” means any persons who have suffered physical or psychological injury or economic loss, caused by the use of cluster munitions; cluster munition victims include such persons directly impacted by cluster munitions.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/24
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Peru for the amendment of Article 2

For the purposes of this Convention:

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) **a munition or sub-munition which has the technical characteristics that allow to limit the area affected and reduce the risk of UXO contamination;**

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/25

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Ireland for the amendment of Article 2

For the purposes of this Convention,

“**Cluster munition victims**” means persons who have suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions; cluster munition victims include those persons directly impacted by cluster munitions as well as their families and communities.

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- b) a munition or sub-munition designed to produce electrical or electronic effects;
- c) ...

“**Explosive sub-munition**” means a munition that in order to perform its task separates from a **cluster** munition and is designed to function by detonating an explosive charge prior to, on or after impact.

“Explosive bomblet” means a munition which in order to perform its task is dispersed or separated from a dispenser, affixed to an aerial platform, and is designed to function by detonating an explosive charge prior to, on or after impact.

“Failed cluster munition” means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;

“Unexploded explosive submunition” means an explosive submunition which has been released dispersed or otherwise separated from a cluster munition and has failed to explode as intended;

“Unexploded explosive bomblet” means an explosive bomblet which has been released, dispersed or otherwise separated from a dispenser, affixed to an aerial platform, and has failed to explode as intended;

“Cluster munition remnants” means **failed cluster munitions**, abandoned cluster munitions, **unexploded explosive submunitions and unexploded explosive bomblets**;

“Transfer” means the physical movement of cluster munitions into or from national territory or the transfer of title to or control over cluster munitions, but does not include the transfer of territory containing cluster munition remnants.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/26

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Sweden for the amendment of Article 2

A. Among the criteria to apply in order to exclude cluster munitions from the scope of the future convention one essential feature, in considering current and future munitions, is the existence of an electrical fail safe system which must embrace both self destruct (SD) **and** self-deactivation (SDA) mechanisms.

The rationale for electrical systems is that batteries always discharge and render the munitions inoperable in the self-deactivating phase.

B. In addition, we propose that cluster munitions with an internal guidance system - including sensors - to aid accuracy should be a prominent feature.

A and B shall also be cumulative criteria.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/27

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Indonesia for the amendment of Article 2

“Cluster munitions areas” mean areas which are dangerous due to the presence or suspected presence of cluster munitions

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/28

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**Proposal by Australia, Denmark, Finland, France, Germany, Italy, Japan, Slovakia,
Sweden, Switzerland and the United Kingdom for the amendment of Article 3**

Exceptions (new text):

6. Notwithstanding the general obligations under Article 1, the retention, acquisition or transfer of a limited number of cluster munitions and sub munitions for the development of and training in cluster munitions and sub munitions detection, cluster munitions and sub munitions clearance, or cluster munitions and sub munitions destruction techniques, or for the development of cluster munition counter-measures is permitted. The amount of these cluster munitions shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.

Transfer (ex para 6. rev.)

7. Notwithstanding the provisions of Article 1 (1), the transfer of cluster munitions for the purpose of destruction as well as for the purposes referred to in paragraph 6 of this Article is permitted⁵.

⁵ Text on *testing, exercises and training* is new.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/29

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 3

1. Each State Party undertakes to remove all cluster munitions from stockpiles of munitions retained for **potential use**.
2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions under its jurisdiction or control, as soon as possible but not later than **10** years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods **protect public health and the environment**.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 within that time period it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions for a **further** period of up to ten years.
4. Each request shall contain:
 - a) The duration of the proposed extension;
 - b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article; and
 - c) A plan for how and when stockpile destruction will be completed.
5. The meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.
6. **Notwithstanding the provisions of Article 1, the retention, acquisition or transfer of a limited number of cluster munitions and sub-munitions for the development of and training in cluster munitions and sub-munitions detection, clearance or destruction techniques, or for the development of cluster munition counter-measures is permitted. The amount of cluster munitions and sub-munitions shall not exceed the minimum number absolutely necessary for the above mentioned purposes.**

7. Notwithstanding the provisions of Article 1 the transfer of cluster munitions for the purpose of destruction **as well as for testing, exercises and training in detection, cluster munitions and sub-munitions clearance or destruction techniques** is permitted.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/30

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Peru for the amendment of Article 3

2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions under its jurisdiction or control as soon as possible but not later than **10** years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/31

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Ireland for the amendment of Article 4

Article 4

Clearance and destruction of cluster munition remnants

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in areas under its jurisdiction or control, as follows:

(a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention for that State Party, such clearance and destruction shall be completed as soon as possible but no later than 5 years from that date;

(b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants **that are** located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible, but no later than 5 years after **the end of the active hostilities during which** such cluster munitions became cluster munition remnants.

(c) Upon fulfilling either of the obligations set out in sub-paragraphs (a) and (b) of this paragraph, the relevant State Party shall make a declaration of compliance to the next Meeting of States Parties.

2. In fulfilling the obligations set out in paragraph 1 of this Article, each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

(a) Survey, assess and **record** the threat posed by cluster munition remnants, **making every effort to identify all areas under its jurisdiction or control in which cluster munitions remnants are known or suspected to be located;**

(b) Assess and prioritise needs ~~and practicability~~ in terms of marking, protection of civilians and clearance and destruction, take steps to mobilise resources and develop a national plan to carry out these activities, **building, where appropriate, upon existing structures, experiences and methodologies;**

(c) **Take all feasible steps to** ensure that all cluster munition remnants located in areas under its jurisdiction or control are perimeter-marked,

monitored and protected by fencing or other means to ensure the effective exclusion of civilians. ~~The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, as amended on 3 May 1996, annexed 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.~~ **Warning signs based on methods of marking recognised by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should as far as possible be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the area affected by cluster munition remnants and which side is considered to be safe;**

(d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and

(e) Conduct risk-**reduction** education to ensure awareness among civilians living in or around areas in which cluster munition remnants are located of the risks posed by such remnants.

3. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for it and have become cluster munition remnants **that are** located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

(a) In such cases, upon entry into force of this Convention for both States Parties, the former State Party shall provide, *inter alia*, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the UN system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.

(b) Such assistance shall include, **where available**, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within that time period it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants for a period of up to 5 years. **The requested period shall not exceed the minimum number of years strictly necessary to fulfil the obligations under paragraph 1 of this Article.**

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall contain:

- (a) The duration of the ~~proposed~~ **requested** extension;
- (b) A detailed explanation of the reasons for the proposed extension, including:
 - i) The preparation and status of work conducted under national clearance and demining programmes **during the initial five year period;**
 - ii) The financial and technical means available to, and required by, the State Party for the clearance and destruction of all cluster munition remnants **during the requested extension period;** and
 - iii) Circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control **during the initial five year period, and those that may impede this ability during the requested extension period;**
- (c) The humanitarian, social, economic, and environmental implications of the extension; and
- (d) Any other information relevant to the request for the proposed extension.

7. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period. **The States Parties may decide to grant a shorter extension period than that requested and may propose benchmarks for the extension period as appropriate.**

8. Such an extension may be renewed **for a period of up to 5 years** upon the submission of a new request in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/32

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by France and Germany for the amendment of Article 4

Article 4

Clearance, removal and destruction of explosive remnants of cluster munitions (ERCM)⁶

1.⁷ Each State party and party to an armed conflict shall bear the responsibilities set out in this Article with respect to all explosive remnants of cluster munitions in territory under its control. In cases where a user of cluster munitions which have become explosive remnants of cluster munitions, does not exercise control of the territory, the user shall, after the cessation of active hostilities, provide where feasible, inter alia, technical, financial, material or human resources assistance, bilaterally or through a mutually agreed third party, including inter alia through the United Nations system or other relevant organizations, to facilitate the marking and clearance, removal or destruction of such explosive remnants of cluster munitions.

2. Each State Party undertakes to Option I (Wellington text unchanged): clear and destroy, or ensure the clearance and destruction of / Option 2⁸: mark and clear, remove or destroy/ Explosive Remnants of Cluster Munitions located in areas under its control, as follows:

a) ⁹Where, after entry into force of this Convention for that State Party, cluster munitions used during an armed conflict¹⁰ have become explosive remnants of cluster munitions located in areas under its jurisdiction or/ control, such clearance, removal or ~~and~~ destruction must be completed as soon as possible but no later than [x] years after cessation of active hostilities¹¹ ~~after such cluster munitions became cluster munitions remnants.~~

b) Where explosive remnants of cluster munitions are located in areas under its [jurisdiction or] control at the date of entry into force of this Convention for that State Party, ~~such clearance and destruction shall be completed as soon as possible but no later than 5 years from that date~~

⁶ It is proposed to change the title in accordance with a methodology more consistent with Protocol V

⁷ It is proposed to add this paragraph, based on Article 3(1) of CCW Protocol V, with the understanding that, as with Protocol V, it only applies to future ERCM. It clearly spells out the responsibilities of States (affected and users) and, while referring to "all" explosive remnants of cluster munitions (ERCM) it does not link this reference directly and specifically to clearance obligations. The term "Explosive Remnants of Cluster Munitions", which should include both "unexploded sub-munitions" and "abandoned explosive cluster munitions", will have to be defined in Article 2 of the Draft Convention (see CCM/22).

⁸ Option 2 is based on Protocol V, Article 3

⁹ Reversing the order of the two sub-paragraphs is suggested: it seems more logical to start with the situation which will be given a clear priority, i.e. future ERCM, and not existing ones.

¹⁰ This is meant to clarify the fact that clearance of cluster munitions used e.g. for training will be out of the scope of this Convention

¹¹ It is proposed that the time line for counting down the time limit be the same as in Protocol V, Article 3.

provisions of Paragraph/Article [x]¹² shall apply to the clearance, removal or destruction of such explosive remnants of cluster munitions¹³.

3. In fulfilling the obligations set out in paragraph 1 **2a**), each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

a) Survey and assess the threat posed by **explosive** remnants **of** cluster munitions;

b) Assess and prioritise needs and practicability in terms of marking, protection of civilians and clearance, **removal or** ~~and~~ destruction, take steps to mobilise resources and develop a national plan to carry out these activities;

c) Ensure that ~~all~~ **explosive** remnants **of** cluster munitions located in areas under its [jurisdiction or] control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians. The marking shall at least be to the standards set out in the Protocol on **Explosive Remnants of War (Technical Annex)** ~~Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, as amended on 3 May 1996,~~ annexed 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;

d) Clear, **remove or** ~~and~~ **destroy** ~~all~~ **explosive** remnants **of** cluster munitions located in areas under its **[jurisdiction or]** control; and

e) Conduct risk education to ensure awareness among civilians living in or around areas in which **explosive** remnants **of** cluster munitions are located of the risks posed by such remnants.

4. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.

~~(cf. CCM/47) 4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for it and have become cluster munition remnants located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter. In such cases, upon entry into force of this Convention for both States Parties, the former State Party shall provide, inter alia, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the UN system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants. Such assistance shall include information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.~~

¹² See CCM/47

¹³ Reference proposed to an additional paragraph/article, which should be mainly based on Article 7 of Protocol V applicable to existing ERW and would exclude retrospective obligations.

5. If a State Party believes that it will be unable to clear, ~~remove or~~ **remove or** ~~and~~ destroy or ensure the clearance, ~~removal or~~ **removal or** ~~and~~ destruction of all **explosive** remnants **of** cluster munitions referred to in paragraph **2a)** of this Article, within that time period, it may submit a request to a Meeting of the States Parties, or a Review Conference, for an extension of the deadline for completing the clearance, ~~removal or~~ **removal or** ~~and~~ destruction of such **explosive** remnants **of** cluster munitions, for a period of up to [x] years.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph ~~4~~ **2a)** of this Article for that State Party. Each request shall contain:

- a) The duration of the proposed extension;
- b) A detailed explanation of the reasons for the proposed extension, including:
 - (i) The preparation and status of work conducted under national clearance ~~and demining~~ programmes;
 - (ii) The financial and technical means available to, and required by, the State Party for the clearance, ~~removal or~~ **removal or** ~~and~~ destruction of all **explosive** remnants **of** cluster munitions; and
 - (iii) Circumstances that impede the ability of the State Party to ~~clear, remove or~~ **clear, remove or** ~~destroy all~~ **destroy all** **explosive** remnants **of** cluster munitions located in areas under its ~~jurisdiction~~ **[jurisdiction or]** control;
- c) The humanitarian, social, economic, and environmental implications of the extension; and
- d) Any other information relevant to the request for the proposed extension.

7. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of States Parties present and voting whether to grant the request for an extension period.

8. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/33

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 4

1. **After the cessation of active hostilities and as soon as feasible**, each State Party undertakes to clear and destroy, or ensure the clearance and destruction of cluster munition remnants **that pose a humanitarian threat** located in areas under its jurisdiction or control, and **shall complete such clearance no later than 10 years from the date of entry in to force of this Convention for that State Party.**
2. In fulfilling the obligations set out in paragraph 1, each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:
 - (a) Survey and assess the threat posed by cluster munition remnants;
 - (b) Assess and prioritise needs and practicability in terms of marking, protection of civilians and clearance and destruction, take steps to mobilise resources and develop a national plan to carry out these activities;
 - (c) Ensure to the maximum extent possible that all cluster munition remnants located in areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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;
 - (d) **To the extent possible** clear and destroy **sub-munition remnants that pose a humanitarian threat** located in areas under its jurisdiction or control; and
 - (e) Conduct risk education to ensure awareness among civilians living in or around areas in which cluster munition remnants are located of the risks posed by such remnants.
3. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.
4. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within that time period it may submit a request to a Meeting of States

Parties, or a Review Conference, for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants, for a period of up to **10** years.

5. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall contain:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the reasons for the proposed extension, including:
 - i) The preparation and status of work conducted under national clearance and demining programmes;
 - ii) The financial and technical means available to, and required by, the State Party for the clearance and destruction of all cluster munition remnants; and
 - iii) Circumstances which impede the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control;
- (c) The humanitarian, social, economic, and environmental implications of the extension; and
- (d) Any other information relevant to the request for the proposed extension.

6. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.

7. Such an extension may be renewed upon the submission and assessment of a new request in accordance with paragraphs **4, 5 and 6** of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/34

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Italy for the amendment of Article 4

Delete Article 4 (4)

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/35

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Switzerland for the amendment of Article 5

1. Each States Party with respect to ~~cluster munition~~ victims in areas under its jurisdiction or control shall, in accordance with **applicable** international human rights law **standards**, adequately provide for **the access and quality of** their medical care and rehabilitation, psychological support and social and economic ~~inclusion~~ **reintegration as well as a participatory inclusion**. Each State Party shall make every effort to collect reliable relevant data with respect to ~~cluster munition victims~~ **all victims in global and already existing data collection system if available**.

2. In fulfilling its obligation under paragraph 1 of this Article each State Party shall take into consideration relevant guidelines and good practices in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion **and the practices and frameworks developed to assist the victims in the context of other multilateral disarmament/arms control instruments**.

3. In fulfilling its obligations under paragraph 1, each State Party shall endeavour to enhance in the most efficient and effective way existing State responses to the medical care and rehabilitation, psychological support and social and economic inclusion needs of its population, including cluster munition victims and other persons with disabilities.

4. In fulfilling its obligations under paragraph 1, each State Party shall ensure that there is no discrimination between cluster munition victims and those who have suffered injuries or who live with disabilities resulting from other circumstances.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/36

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 5

1. Each State Party with respect to cluster munitions victims **injured in its own territory** shall, **in accordance with national laws and practices**, provide for their medical care **and treatment**. Each State Party shall make every effort to collect reliable relevant data with respect to victims of cluster munitions.
2. In fulfilling its obligation under paragraph 1 of this Article each State Party shall **ensure that the measures adopted are in accordance with fundamental human rights principles, including non-discrimination**, and shall take into consideration relevant guidelines and good practices in the areas of medical care **and treatment**.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/37

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**Proposal by Denmark, France, Germany and Sweden for the amendment of
Article 6**

9.bis Each State Party that receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation thereof, including by collecting and releasing all relevant data and information, by granting favourable entry and visa regimes for international personnel involved in assistance programmes, and by ensuring the unimpeded import of relevant material and equipment free of financial and administrative burdens.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/38

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 6

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance, **where feasible, from other States Parties to the extent possible.**
2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system; international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.
3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of clearance equipment and related technological information for humanitarian purposes.
4. In addition to any obligations it may have pursuant to Article 4, paragraph 4, each State Party in a position to do so shall provide assistance for clearance of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact of clearance of cluster munition remnants and related activities.
5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk education, protection of civilians and clearance and destruction as provided in Article 4.
6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State party in a position to do so, shall urgently provide emergency assistance to the affected State Party.
7. Each State Party in a position to do so shall provide assistance for medical care, rehabilitation and psychological support, social and economic inclusion of all **victims of cluster munitions.** Such assistance may be provided, *inter alia*, through the United Nations System, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and

Red Crescent societies and their International Federation, non-governmental organisations, or on a bilateral basis.

8. Each State Party in a position to do so may contribute to relevant trust funds, in order to facilitate the provision of assistance under this Article.

9. Each State Party may, with the purpose of developing a national action plan, request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

- (a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
- (b) The financial, technological and human resources required for the implementation of the plan;
- (c) The time estimated as necessary to clear all cluster munition remnants located in areas under its jurisdiction or control;
- (d) Risk education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
- (e) Assistance to **victims from cluster munitions**; and
- (f) The **coordination** relationship between the Government of the **concerned State Party** and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the plan.

10. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/39

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Italy for the amendment of Article 6

4. ~~In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each~~ **Each** State Party in a position to do so shall provide assistance for clearance of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance of cluster munition remnants and related activities.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/40

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**Proposal by Australia, Denmark, France, Germany, Italy, Sweden, Switzerland and
the United Kingdom for the amendment of Article 7**

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:

a) - m)

**n) the total number, types and locations of cluster munitions kept
under the provisions of paragraph 6 of Article 3.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/41

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 7

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:

- a) The national implementation measures referred to in Article 9;
- b) The total of all stockpiled cluster munitions owned or possessed by it, or under its jurisdiction or control, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
- c) To the extent possible, all other cluster munitions that are stockpiled on its territory;
- d) The technical characteristics of each type of cluster munitions produced, to the extent known, and those currently owned or possessed by a State Party, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate the clearance of cluster munition remnants;
- e) To the extent possible, the location of all areas that contain, or are suspected to contain, cluster munition remnants, under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munitions in each affected area and when they were used;
- f) The status of programmes for the conversion or de-commissioning of production facilities for cluster munitions;
- g) The status of programmes for the destruction, in accordance with Article 3, of cluster munitions, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
- h) The types and quantities of cluster munitions destroyed in accordance with Article 3, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;

i) Stockpiles discovered after reported completion of the programme referred to in paragraph 7h;

j) The types and quantities of all cluster munitions remnants cleared and destroyed in accordance with Article 4, **after the entry into force of this Convention for that State Party**, to include a breakdown of the quantity of each type of cluster munitions remnants cleared and destroyed;

k) The measures taken to provide risk education and, in particular, an immediate and effective warning to civilians living in areas under its jurisdiction or control in which cluster munition remnants are located; and

l) The measures taken in accordance with the provisions of Article 5 to adequately provide for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions as well as to collect reliable relevant data.

m) **In addition, each State Party shall provide** the name and contact details of the institutions mandated to provide information as described in this Article and of the institutions mandated to carry out the measures described in this **Article**.

n) The total number, types and locations of cluster munitions kept under the provisions of Article 3, paragraph 6.

2. The information provided in accordance with this Article shall be updated by the States Parties annually, covering the previous calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/42

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 8

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.
2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.
3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.
4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.
5. Where a matter has been submitted to it pursuant to paragraph 3 the Meeting of the States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine the Meeting of the States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 5. **[Add references from Ottawa Convention Articles 8(6) and 8(19) with regard to special meetings, fact finding missions and the mechanism for reaching decisions at States Parties meetings.]**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/43

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 10

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of the States Parties and referral, **by mutual consent**, to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/44

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 14

1. The costs of the Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.
2. The costs incurred by the Secretary-General of the United Nations under Articles 6, 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/45

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 17

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/46

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Germany for the amendment of Article 18

1. Any State may at the time of its ratification, acceptance, approval or accession declare that, while implementing the prohibitions on cluster munitions prohibited under Article 1, it will continue to use no more than [x] types of cluster munitions for a limited period of time not exceeding [y] years from the entry into force of this Convention; such munitions must be reliable and accurate as defined in Article 2, and they must be equipped with a self-destruct, self-neutralization or self-deactivation system.

2. Any use of cluster munitions pursuant to Paragraph 1 shall be in compliance with the provisions of International Humanitarian Law. In particular, it is prohibited in all circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by cluster munitions.

3. During the transition period pursuant to Paragraph 1, the State Party concerned shall not, under any circumstances, transfer to anyone, directly or indirectly, any cluster munitions.

4. The provisions under Paragraph 1 are subject to the following transparency measures by the State Party concerned:

(a) The declaration under Paragraph 1 shall be notified to the Secretary General of the United Nations at the time of ratification, acceptance, approval or accession by the State Party concerned. It shall include details of the type of cluster munitions including on its reliability and accuracy as well as its self-destruct/self-neutralisation/self-deactivation features, the quantity, the deadline for removal from service, the beginning of the phasing out of operational stocks and the completion of the destruction process.

(b) The provisions on Transparency Measures under Article 7, including on annual reporting, shall also apply to the issues contained in the declaration under Paragraphs 1 and 4 (a) of this Article.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/47

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by France and Germany for additional text

Additional provisions on assistance with respect to Explosive Remnants of cluster-munitions existing prior to the entry into force of the Convention¹⁴

Such a provision could be included in Article 4 or preferably in Article 6 with the other provisions dealing with international assistance

This paragraph/**Article** shall apply in cases in which cluster munitions have been used or abandoned by ~~one~~ **a State Party or non-party** prior to entry into force of this Convention **[for it]** and have become **explosive** remnants **of** cluster munitions located in areas under the **[jurisdiction or]** control of ~~another~~ **a State Party** at the time of entry into force of this Convention for the latter. In such cases, upon entry into force of this Convention for **each affected State party**:

1. Each State party has the right to seek and receive assistance, where appropriate, from other States parties, from states non-party and relevant international organizations and institutions in dealing with the problems posed by existing **explosive remnants of cluster-munitions.**

2. Each State party in a position to do so shall provide assistance in dealing with the problems posed by existing **explosive remnants of cluster-munitions,** as necessary and feasible.

3. States parties in a position to do so and which, during an armed conflict, have used or abandoned Cluster Munitions on the territory of another State party which may have become explosive remnants of cluster munitions are invited to make available, without delay after the cessation of active hostilities and as far as practicable, subject to these parties' legitimate security interests, such information to the party or parties in control of the affected area, bilaterally or through a mutually agreed third party including inter alia the United Nations or, upon request, to other relevant organizations which the party providing the information is satisfied that they are or will be undertaking risk education and marking and clearance, removal or destruction of explosive remnants of cluster munitions in the affected area.¹⁵

¹⁴ It is proposed that the issue of Explosive Remnants of Cluster Munitions existing before the entry into force of the Convention be dealt with either by adding a paragraph to Article 4 or a separate Article, as in Protocol V (Article 7). In the additional paragraph/Article proposed above the chapeau is based on the first part of Article 4, paragraph 4 of the Wellington text (with amendments): the first 2 sub-paragraphs (1 and 2) are based on Article 7(1) and 7(2) of CCW Protocol V; sub-paragraph 3 is based on Article 4(2) of Protocol V; and sub-paragraph 4 is added for the sake of coherence with Article 4(4) above.

¹⁵ It should be noted that the addition of this sub-paragraph would be – even with “should” or “are invited to” instead of “shall” – a meaningful step forward compared to obligations under Protocol V, since Article 4 of Protocol V only applies to “ERW other than existing ERW...”

4. In so doing, States parties shall also take into account the humanitarian objectives of this Convention, as well as international standards including the International Mine Action Standards.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/48

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**Proposal by Australia, Canada, Denmark, Finland, France, Germany, Italy, Japan,
the Netherlands and the United Kingdom for additional text**

Article 20

Relationship with Other International Agreements

This Convention shall be considered as complementary to any existing international agreement binding on the Parties.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/48/Corr.

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**Proposal by Australia, Canada, Denmark, Finland, France, Germany, Italy, Japan,
the Netherlands and the United Kingdom for additional text**

New Article

Relationship with Other International Agreements

**This Convention shall be considered as complementary to any existing
international agreement binding on the Parties.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/49

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Canada for additional text

To be included either as a separate article, in the final articles, or within Article 1

Notwithstanding any other provision of this Convention, a State, on becoming a party to this Convention, may declare that, for a period of [XX] years after the entry into force of this Convention for the State concerned, it does not accept the application of Article 1(1)(c) with respect to its participation in combined operations and activities with non-party states. A declaration under this article may be withdrawn at any time. During the period in which a declaration under this article remains in force, the State concerned shall take steps to encourage the government of any non-party state participating in such combined operations and activities to ratify this Convention.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/50

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Switzerland for additional text

New Article
Transition period

(a) At the time of its notification of consent to be bound by this treaty, a High Contracting Party may opt for a transition period not exceeding [X] years to progressively replace the munitions described under Article 2 of this treaty but that are equipped with a self-destruct, self-neutralization or self-deactivation system, by another type of weapon/munitions in conformity with this treaty and the principles of international humanitarian law.

(b) Transition periods are not allowed for munitions described under Article 2 of this treaty which are not equipped with a self-destruct, self-neutralization or self-deactivation system.

(c) During this transition period, the High Contracting Party shall not, under any circumstances, transfer to anyone, directly or indirectly, those prohibited munitions mentioned in paragraph (a).

(d) During this transition period, the High Contracting Party is allowed for training purposes, as last resort or in the case of self-defence to use those prohibited munitions mentioned in paragraph (a) if those have not been replaced yet and in conformity with the principles of international humanitarian law.

Note: a further provision prohibiting the use of the munitions mentioned in paragraph (a) against military objectives located in or near populated areas could be added. In this respect, inspiration could be drawn from Protocol III to the CCW on the Use of Incendiary Weapons.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/53

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Indonesia for the amendment of the Preamble

New pp **“Recognizing the grave consequences by the use of cluster munitions and the need for immediate action to prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians”**

New pp **“Emphasizing the desirability of attracting the adherence of all States to the Convention, and determined to work strenuously towards the promotion of its universalisation in all relevant *fora* including, *inter alia*, the United Nations, the Conference on Disarmament, regional organisations, and groupings”**¹⁶

¹⁶ See CCM 8.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/54
19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Indonesia for the amendment of Article 1

To replace paragraph 2 with the following:

“Each State Party undertakes to destroy or ensure the destruction of all cluster munitions in accordance with the provisions of this Convention”.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/55

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Lao PDR for the amendment of Article 4, paragraph 7

7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request, **particularly the request from most affected States Parties**, and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period. **Special consideration shall be granted to the request from most affected States Parties.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/56

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Philippines for additional text to Article 1

3. This Convention shall also apply to situations resulting from conflicts referred to in Art. 1, paragraphs 1 to 6, 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, as amended on 21 December 2001.¹⁷

4. Armed groups that are distinct from the armed forces of a State shall not, under any circumstances, engage in any activity prohibited to a State Party under this Convention.¹⁸

¹⁷ Reference model: Article 1(3) of the 2003 Protocol V on Explosive Remnants of War annexed to the CCW.

¹⁸ Reference model: Article 4(1) of the 2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/57

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Philippines for the amendment of Article 2

“**Cluster munition victims**” means persons who have suffered **death**, physical or psychological injury, economic loss, social marginalization or substantial impairment of the realization of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their families and communities and also **migrants under the jurisdiction and control of an affected State**.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/58

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Philippines for the amendment of Article 5

1. Each State Party with respect to cluster munitions victims in areas under its jurisdiction or control shall, in accordance with international human rights law **and international humanitarian law**, adequately provide for their medical care and rehabilitation, psychological support and social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligation under paragraph 1 of this Article each State Party shall take into consideration relevant guidelines and good practices in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion.

New para: When a State Party, before entry into force of the Convention for it, has used or abandoned cluster munitions in areas under the jurisdiction or control of another State Party, the former State Party shall have the responsibility to help the latter State Party in addressing the requirements of victim assistance as delineated in Article 5(1).

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/59

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Philippines for amendment of Article 6

7. Each State Party in a position to do so shall provide assistance for medical care, rehabilitation and psychological support, social and economic inclusion of *all* cluster munition victims **including migrants**. Such assistance may be provided, *inter alia*, through the United Nations System, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, **the International Organization for Migration**, non-governmental organisations or on a bilateral basis.

New para: **The States Parties to this Convention shall explore its interface with other relevant treaty regimes, such as but not limited 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, and shall develop mechanisms for this purpose.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/60

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Philippines for the amendment of Article 9

Each State Party shall take all appropriate legal, administrative and other measures **to implement this Convention**, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/61

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Philippines for the amendment of Article 13

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notifies the Depositary no later than ~~30 days~~ **90 days or three months** after its circulation that they support further consideration of the proposal, the Depositary shall convene an Amendment Conference to which all States Parties shall be invited.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/62

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Hungary for amendment of the title to the Convention

To replace the title with the following:

Convention on the Prohibition of Cluster Munitions that Cause Unacceptable Harm to Civilians.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/63

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Slovakia for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - (a) Use cluster munitions **as defined in Article 2**;
 - (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions **as defined in Article 2**;
 - (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.

2. This Convention does not apply to “mines” as defined by the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed 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.

- 3. This Convention does not apply to cluster munitions, which contain explosive sub-munitions of a failure rate not more than one percent, equipped with self-destruction, self-neutralization or self-deactivating feature.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/64

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Slovakia for the amendment of Article 2

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) **cluster munitions, which contain explosive sub-munitions of a failure rate of not more than one percent, equipped with self-destruction, self-deactivation or self-neutralization feature.**

(...)

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/65

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Slovakia for the amendment of Article 3

1. ~~Each State Party undertakes to remove all cluster munitions from stockpiles of munitions retained for operational use and keep them in separate stockpiles for the purpose of destruction.~~

1. Each State Party undertakes to clearly designate all cluster munitions in its stockpiles for the purpose of its destruction.

(...)

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/66

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Slovakia for additional text

New Article (18 *bis*)

Any State Party may at the time of its ratification, acceptance, approval or accession declare that, while implementing Article 1 of this Convention, it will continue to use, only when strictly necessary, cluster munitions for a limited period of time not exceeding twelve years from the entry into force of this Convention for that State Party.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/67

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Spain for the amendment of Article 2

For the purposes of this Convention:

...

“**Cluster munition**” means a carrier-container which contains and is designed to dispense explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) A munition or sub-munition equipped with a self-safe mechanism, that, combined with the normal functioning mechanism, guarantees that the number of remaining dangerous duds that can cause unacceptable harm to non-combatants is in practice equal to zero. In addition that munition or explosive sub-munition is painted and marked in order to distinguish it from the terrain and to warn about their dangerousness.

“**Carrier-container**” means:

- (a) a conventional munition that may be artillery shell, air bomb, guided or un-guided missile or,
- (b) a dispenser, affixed to an aircraft, which is not designed to dispense direct-fire munitions.

“**Explosive sub-munition**” means a conventional explosive munition, which is designed to separate from a cluster munition and to detonate on, prior to or after impact on a target.

“**Self-safe mechanism**” means a combined self-destruction and self-deactivation mechanism, or other type of mechanism with a similar effect, that guarantees that a cluster munition remnant will become an inert explosive remnant in any case and will not detonate accidentally.[new definition]

“**Self-destruction mechanism**” means an incorporated or externally attached automatically-functioning mechanism which secures the destruction of the munition into which it is incorporated or to which it is attached.¹⁹

“**Self-deactivating**” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition.²⁰

¹⁹ from Amended Protocol II.

²⁰ from Amended Protocol II.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/68

19 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the Czech Republic for the amendment of Article 2

For the purposes of this Convention:

...

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics, or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) **a munition containing landmines;**
- (d) **a munition containing less than 10 explosive sub-munitions, equipped with a self-destruction and/or self-deactivation mechanism.**

“**Explosive sub-munitions**” means munitions that in order to perform their task separate from a parent munition and are designed to function by detonating an explosive charge prior to or **immediately** after impact;

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/69

20 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Morocco, supported by Senegal and Mauritania, for the amendment of the Proposal by Germany, supported by Denmark, France, Italy, Slovakia, Spain, the Czech Republic and the United Kingdom for the amendment of Article 1

1. Each State Party undertakes never under any circumstances to:
 - (d) Use cluster munitions;
 - (e) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - (f) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention. This provision does not preclude the mere participation in the planning or the execution of operations, exercises or other military activities by the Armed Forces or by an individual national of a State Party to this Convention, conducted in combination with Armed Forces of States not Parties to this Convention which engage in activity prohibited under this Convention,²¹ provided that the States not party explain to the States Parties participating in the planning or the execution of operations, the military necessity for engaging in such activities and taking into account the humanitarian concerns addressed by the Convention. The States Parties shall refrain from engaging in activities prohibited under this Convention in any joint military operations with States not parties.

²¹ For the German proposal for the amendment of Article 1 see CCM13.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/70

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Argentina, Ecuador, Guatemala, Uruguay, Dominican Republic, Mexico, Nicaragua, Panama, Peru, Costa Rica, Chile, Honduras, Zambia and Guinea for the amendment of Article 5

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with international human rights law **and principles, including non-discrimination, full and effective participation, and inclusion in society**, adequately provide **assistance, including** ~~for their~~ medical care and rehabilitation, psychological support and social and economic inclusion. Each State Party shall **develop, implement and enforce relevant laws and policies, and** make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:

- (a) assess the needs of victims, take steps to mobilise national and international resources and develop a national plan²² including the time estimated to carry out these activities,²³ with a view to incorporating it within existing disability, development and human rights frameworks and mechanisms;**
- (b) closely consult with and actively involve victims and their representative organisations;²⁴**
- (c) designate a focal point within the government to coordinate activities undertaken in different sectors and at different levels;²⁵**
- (d)** take into consideration relevant guidelines and good practices in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion.

²² Based almost word-by-word on Article 4(2)(b) of the current draft treaty.

²³ See Article 6(10)(c).

²⁴ Based on CRPD Article 4(3).

²⁵ Based on CRPD Article 33(1).

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/71

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**Proposal by Argentina, Costa Rica, Ecuador, Guatemala, Lebanon, Mexico, Palau
and Uruguay for the amendment of Article 2**

For the purposes of this Convention:

“**Cluster munition victims**” means persons who have suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their families and communities;

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (d) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (e) a munition or sub-munition designed to produce electrical or electronic effects; ₂
- (f) —...

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/72

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Norway for the amendment of Article 2

Add the following definitions:

“Self-destruct mechanism” means a mechanism that physically destroys the warhead in the event that it does not function as intended and thus leaving no unexploded objects behind;

“Self-deactivation mechanism” means a mechanism that drains the sub-munition of the energy required to bring it to detonation and thus rendering the remaining unexploded object safe to handle and safe in any incidental contact;

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/73

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Norway for the amendment of Article 2

For the purposes of this Convention:

(...)

“**Transfer**” means, **in addition to** the physical movement of cluster munitions into or from national territory, ~~or~~ the transfer of title to or control over the cluster munitions, but does not include the transfer of territory containing cluster munitions remnants.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/74

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Canada for the amendment of Article 2

For the purposes of this Convention:

(...)

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (g) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics, or chaff;
- (h) a munition or sub-munition designed to produce electrical or electronic effects;
- (i) **a munition that has all the following characteristics that ensure greater accuracy and reduce the risk of unexploded ordnance contamination from its use:**
 - a. **each sub-munition is designed to locate and engage a point target within a pre-defined area;**
 - b. **each sub-munition is equipped with an electronic self-destruct mechanism;**
 - c. **each sub-munition is equipped with an electronic self-deactivation mechanism.**

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/75

23 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by the United Kingdom for the amendment of Article 2

Addressing the humanitarian concerns:

- Numbers. Need to address the issue of preventing an area from being contaminated with ERW. This can be done by either limiting the number of submunitions within a cluster munition or by ensuring that each submunition has a fail safe system, including self-destruct systems.
- Accuracy. Need to enhance compliance with distinction and proportionality to reduce civilian casualties and minimize the area of effect. This can be done by a point target capability, which locates and engages a target in a pre-defined area, or by direct fire, which ensures direct human control over the effects as the operator has sight of the target at the time of attack and can make a higher quality assessment of compliance with distinction and proportionality rules.
- Reliability. Need to increase reliability in order to minimize the incidence of ERW. This can be achieved by the inclusion of fail safe systems, including self-destruct systems.

Effects: Effects can be controlled:

- At time of attack: low numbers, point target capabilities or direct fire control minimize the effects at the time of attack. They ensure greater definition of and adherence to the distinction and proportionality IHL rules.
- Post attack: fail safe systems minimize the effects post attack.

Approach: Building on the Friend of the Chair's proposals contained in a number of criteria in Models C, F and G and proposals submitted by the UK in the Wellington Compendium would address the humanitarian concerns.

Definition:

For the purposes of this Convention:

(...)

“Cluster Munition” means a munition which contains more than 10 conventional sub-munitions and which that is designed to disperse or release conventional explosive sub-munitions, and includes those explosive sub-munitions, over targets in a pre-defined area. It does not mean the following:

- (a) a ~~munition~~ or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff; **or a munition designed to be an air defence system;**
- (b) a ~~munition~~ or sub-munition designed to produce electrical or electronic effects;
- (c) **a sub-munition designed to be fired directly into a pre-defined area or to locate and engage a point target within a pre-defined area or which is equipped with a self-destruct system.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/76

27 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Proposal by Spain for the amendment of Article 2

For the purposes of this Convention:

(...)

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (c) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (d) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) a munition that does not cause unacceptable harm to civilians and has all the following characteristics which minimise its area effect and the risk of unexploded ordnance contamination from its use:**
 - (i) a munition which contains sub-munitions which only address the area encompassed by the intended military objective;**
 - (ii) each sub-munition is equipped with an electronic self-destruction mechanism;**
 - (iii) each sub-munition is equipped with an electronic self-deactivation mechanism;**

“**Explosive sub-munitions**” means ~~munitions that in order to perform their task separate from a parent munition and are designed to function by detonating an explosive charge prior to, on or after impact;~~ **a conventional explosive munition, which is designed to separate from a cluster munition and to detonate on, prior to or after impact on a target;**

“**Military objective**” means, **so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage;** [from Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons, and also from Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and other Devices].

“**Self-destruction mechanism**” means **an incorporated or externally attached automatically-functioning mechanism which secures the destruction of the munition into which it is incorporated or to which it is attached;** [from Amended Protocol II]

“Self-deactivating” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition; [from Amended Protocol II]

(...)

Rationale for the proposed Article 2(c)(i):

Concerning the proposed definition: the intention is to establish a relationship between accuracy and the final effects, irrespective of the specific means of delivery used (GPS direct observation of the military objective, guided weapons, sensor fuze weapons, ...).

Concerning the use of the concept “military objective”, it is proposed to employ the agreed and consolidated concept in international law.

Further explanation on the use of cluster munitions for the protection of civilians and civilian objects (adapted from Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons):

- a) It is prohibited in all circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by cluster munitions.
- b) It is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by cluster munitions.
- c) It is further prohibited to make any military objective located within a concentration of civilians the object of attack by means of cluster munitions except when such military objective is clearly separated from the concentration of civilians and all feasible precautions are taken with a view to limiting the cluster munitions effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/77

30 May 2008
Original: ENGLISH
FRENCH
SPANISH

DUBLIN 19 – 30 MAY 2008

Convention on Cluster Munitions

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to bear the brunt of armed conflict,

Determined to put an end for all time to the suffering and casualties caused by cluster munitions at the time of their use, when they fail to function as intended or when they are abandoned,

Concerned that cluster munition remnants kill or maim civilians, including women and children, obstruct economic and social development, including through the loss of livelihood, impede post-conflict rehabilitation and reconstruction, delay or prevent the return of refugees and internally displaced persons, can negatively impact on national and international peace-building and humanitarian assistance efforts, and have other severe consequences that can persist for many years after use,

Deeply concerned also at the dangers presented by the large national stockpiles of cluster munitions retained for operational use and *determined* to ensure their rapid destruction,

Believing it necessary to contribute effectively in an efficient, coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to ensure their destruction,

Determined also to ensure the full realisation of the rights of all cluster munition victims and *recognising* their inherent dignity,

Resolved to do their utmost in providing assistance to cluster munition victims, including medical care, rehabilitation and psychological support, as well as providing for their social and economic inclusion,

Recognising the need to provide age- and gender-sensitive assistance to cluster munition victims and to address the special needs of vulnerable groups,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and *resolved* to avoid discrimination among victims of various types of weapons,

Reaffirming that in cases not covered by this Convention or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law, derived from established custom, from the principles of humanity and from the dictates of public conscience,

Resolved also that armed groups distinct from the armed forces of a State shall not, under any circumstances, be permitted to engage in any activity prohibited to a State Party to this Convention,

Welcoming the very broad international support for the international norm prohibiting anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the adoption of the Protocol on Explosive Remnants of War, annexed 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, and its entry into force on 12 November 2006, and *wishing* to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Bearing in mind also United Nations Security Council Resolution 1325 on women, peace and security and United Nations Security Council Resolution 1612 on children in armed conflict,

Welcoming further the steps taken nationally, regionally and globally in recent years aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and *recognising* the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which, *inter alia*, States recognised the grave consequences caused by the use of cluster munitions and committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and would establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation for victims, clearance of contaminated areas, risk reduction education and destruction of stockpiles,

Emphasising the desirability of attracting the adherence of all States to this Convention, and *determined* to work strenuously towards the promotion of its universalisation and its full implementation,

Basing themselves on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and the rules that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against military objectives only, that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,

HAVE AGREED as follows:

Article 1

General obligations and scope of application

1. Each State Party undertakes never under any circumstances to:
 - (a) Use cluster munitions;
 - (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.
2. Paragraph 1 of this Article applies, *mutatis mutandis*, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft.
3. This Convention does not apply to mines.

Article 2

Definitions

For the purposes of this Convention:

1. **“Cluster munition victims”** means all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities;
2. **“Cluster munition”** means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:
 - (a) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;

- (b) A munition or submunition designed to produce electrical or electronic effects;
 - (c) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
 - (i) Each munition contains fewer than ten explosive submunitions;
 - (ii) Each explosive submunition weighs more than four kilograms;
 - (iii) Each explosive submunition is designed to detect and engage a single target object;
 - (iv) Each explosive submunition is equipped with an electronic self-destruction mechanism;
 - (v) Each explosive submunition is equipped with an electronic self-deactivating feature;
3. **“Explosive submunition”** means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact;
 4. **“Failed cluster munition”** means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;
 5. **“Unexploded submunition”** means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended;
 6. **“Abandoned cluster munitions”** means cluster munitions or explosive submunitions that have not been used and that have been left behind or dumped, and that are no longer under the control of the party that left them behind or dumped them. They may or may not have been prepared for use;
 7. **“Cluster munition remnants”** means failed cluster munitions, abandoned cluster munitions, unexploded submunitions and unexploded bomblets;
 8. **“Transfer”** involves, in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants;
 9. **“Self-destruction mechanism”** means an incorporated automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated;
 10. **“Self-deactivating”** means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition;
 11. **“Cluster munition contaminated area”** means an area known or suspected to contain cluster munition remnants;

12. **“Mine”** means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

13. **“Explosive bomblet”** means a conventional munition, weighing less than 20 kilograms, which is not self-propelled and which, in order to perform its task, is dispersed or released by a dispenser, and is designed to function by detonating an explosive charge prior to, on or after impact;

14. **“Dispenser”** means a container that is designed to disperse or release explosive bomblets and which is affixed to an aircraft at the time of dispersal or release;

15. **“Unexploded bomblet”** means an explosive bomblet that has been dispersed, released or otherwise separated from a dispenser and has failed to explode as intended.

Article 3

Storage and stockpile destruction

1. Each State Party shall, in accordance with national regulations, separate all cluster munitions under its jurisdiction and control from munitions retained for operational use and mark them for the purpose of destruction.

2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article as soon as possible but not later than eight years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within eight years of entry into force of this Convention for that State Party it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions by a period of up to four years. A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.

4. Each request for an extension shall set out:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article and, where applicable, the exceptional circumstances justifying it;
- (c) A plan for how and when stockpile destruction will be completed;

- (d) The quantity and type of cluster munitions and explosive submunitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive submunitions discovered after such entry into force;
- (e) The quantity and type of cluster munitions and explosive submunitions destroyed during the period referred to in paragraph 2 of this Article; and
- (f) The quantity and type of cluster munitions and explosive submunitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.

5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.

6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive submunitions for the development of and training in cluster munition and explosive submunition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive submunitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.

8. States Parties retaining, acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

Article 4

Clearance and destruction of cluster munition remnants and risk reduction education

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in cluster munition contaminated areas under its jurisdiction or control, as follows:

- (a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention

for that State Party, such clearance and destruction shall be completed as soon as possible but not later than ten years from that date;

- (b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible but not later than ten years after the end of the active hostilities during which such cluster munitions became cluster munition remnants; and
- (c) Upon fulfilling either of its obligations set out in sub-paragraphs (a) and (b) of this paragraph, that State Party shall make a declaration of compliance to the next Meeting of States Parties.

2. In fulfilling its obligations under paragraph 1 of this Article, each State Party shall take the following measures as soon as possible, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

- (a) Survey, assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control;
- (b) Assess and prioritise needs in terms of marking, protection of civilians, clearance and destruction, and take steps to mobilise resources and develop a national plan to carry out these activities, building, where appropriate, upon existing structures, experiences and methodologies;
- (c) Take all feasible steps to ensure that all cluster munition contaminated areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. Warning signs based on methods of marking readily recognisable by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should, as far as possible, be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the cluster munition contaminated areas and which side is considered to be safe;
- (d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and
- (e) Conduct risk reduction education to ensure awareness among civilians living in or around cluster munition contaminated areas of the risks posed by such remnants.

3. In conducting the activities referred to in paragraph 2 of this Article, each State Party shall take into account international standards, including the International Mine Action Standards (IMAS).

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for that State Party and have become cluster munition remnants that are located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

- (a) In such cases, upon entry into force of this Convention for both States Parties, the former State Party is strongly encouraged to provide, *inter alia*, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the United Nations system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.
- (b) Such assistance shall include, where available, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within ten years of the entry into force of this Convention for that State Party, it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants by a period of up to five years. The requested extension shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 1 of this Article.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall be submitted a minimum of nine months prior to the Meeting of States Parties or Review Conference at which it is to be considered. Each request shall set out:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to and required by the State Party for the clearance and destruction of all cluster munition remnants during the proposed extension;
- (c) The preparation of future work and the status of work already conducted under national clearance and demining programmes during the initial ten year period referred to in paragraph 1 of this Article and any subsequent extensions;
- (d) The total area containing cluster munition remnants at the time of entry into force of this Convention for that State Party and any additional areas containing cluster munition remnants discovered after such entry into force;
- (e) The total area containing cluster munition remnants cleared since entry into force of this Convention;
- (f) The total area containing cluster munition remnants remaining to be cleared during the proposed extension;
- (g) The circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control during the initial ten year period referred to in paragraph 1 of this Article, and those that may impede this ability during the proposed extension;
- (h) The humanitarian, social, economic and environmental implications of the proposed extension; and

- (i) Any other information relevant to the request for the proposed extension.

7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 6 of this Article, including, *inter alia*, the quantities of cluster munition remnants reported, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate.

8. Such an extension may be renewed by a period of up to five years upon the submission of a new request, in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension a State Party shall submit relevant additional information on what has been undertaken during the previous extension granted pursuant to this Article.

Article 5 *Victim assistance*

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:

- (a) Assess the needs of cluster munition victims;
- (b) Develop, implement and enforce any necessary national laws and policies;
- (c) Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;
- (d) Take steps to mobilise national and international resources;
- (e) Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs;
- (f) Closely consult with and actively involve cluster munition victims and their representative organisations;
- (g) Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and
- (h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.

Article 6
International cooperation and assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.
2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.
3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision and receipt of clearance and other such equipment and related technological information for humanitarian purposes.
4. In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each State Party in a position to do so shall provide assistance for clearance and destruction of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities.
5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk reduction education, protection of civilians and clearance and destruction as provided in Article 4 of this Convention.
6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State Party in a position to do so shall urgently provide emergency assistance to the affected State Party.
7. Each State Party in a position to do so shall provide assistance for the implementation of the obligations referred to in Article 5 of this Convention to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent Societies and their International Federation, non-governmental organisations or on a bilateral basis.
8. Each State Party in a position to do so shall provide assistance to contribute to the economic and social recovery needed as a result of cluster munition use in affected States Parties.

9. Each State Party in a position to do so may contribute to relevant trust funds in order to facilitate the provision of assistance under this Article.

10. Each State Party that seeks and receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation of this Convention, including facilitation of the entry and exit of personnel, materiel and equipment, in a manner consistent with national laws and regulations, taking into consideration international best practices.

11. Each State Party may, with the purpose of developing a national action plan, request the United Nations system, regional organisations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

- (a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
- (b) The financial, technological and human resources required for the implementation of the plan;
- (c) The time estimated as necessary to clear and destroy all cluster munition remnants located in areas under its jurisdiction or control;
- (d) Risk reduction education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
- (e) Assistance to cluster munition victims; and
- (f) The coordination relationship between the government of the State Party concerned and the relevant governmental, intergovernmental or non-governmental entities that will work in the implementation of the plan.

12. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:

- (a) The national implementation measures referred to in Article 9 of this Convention;
- (b) The total of all cluster munitions, including explosive submunitions, referred to in paragraph 1 of Article 3 of this Convention, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
- (c) The technical characteristics of each type of cluster munition produced by that State Party prior to entry into force of this Convention for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a

minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;

- (d) The status and progress of programmes for the conversion or decommissioning of production facilities for cluster munitions;
- (e) The status and progress of programmes for the destruction, in accordance with Article 3 of this Convention, of cluster munitions, including explosive submunitions, with details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
- (f) The types and quantities of cluster munitions, including explosive submunitions, destroyed in accordance with Article 3 of this Convention, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;
- (g) Stockpiles of cluster munitions, including explosive submunitions, discovered after reported completion of the programme referred to in sub-paragraph (e) of this paragraph, and plans for their destruction in accordance with Article 3 of this Convention;
- (h) To the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition remnant in each such area and when they were used;
- (i) The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention, to include the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnant cleared and destroyed;
- (j) The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control;
- (k) The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims;
- (l) The name and contact details of the institutions mandated to provide information and to carry out the measures described in this paragraph;
- (m) The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention; and
- (n) The amounts, types and destinations of international cooperation and assistance provided under Article 6 of this Convention.

2. The information provided in accordance with paragraph 1 of this Article shall be updated by the States Parties annually, covering the previous calendar year, and

reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.

3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any Meeting of States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

5. Where a matter has been submitted to it pursuant to paragraph 3 of this Article, the Meeting of States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine, the Meeting of States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6 of this Convention.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article, the Meeting of States Parties may decide to adopt such other general procedures or

specific mechanisms for clarification of compliance, including facts, and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

Article 10

Settlement of disputes

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

Article 11

Meetings of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of this Convention, including:

- (a) The operation and status of this Convention;
- (b) Matters arising from the reports submitted under the provisions of this Convention;
- (c) International cooperation and assistance in accordance with Article 6 of this Convention;
- (d) The development of technologies to clear cluster munition remnants;
- (e) Submissions of States Parties under Articles 8 and 10 of this Convention; and
- (f) Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The first Meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed rules of procedure.

Article 12 *Review Conferences*

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:

- (a) To review the operation and status of this Convention;
- (b) To consider the need for and the interval between further Meetings of States Parties referred to in paragraph 2 of Article 11 of this Convention; and
- (c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Review Conference as observers in accordance with the agreed rules of procedure.

Article 13 *Amendments*

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Secretary-General of the United Nations, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Secretary-General of the United Nations no later than 90 days after its circulation that they support further consideration of the proposal, the Secretary-General of the United Nations shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Amendment Conference as observers in accordance with the agreed rules of procedure.

3. The Amendment Conference shall be held immediately following a Meeting of States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to all States.

5. An amendment to this Convention shall enter into force for States Parties that have accepted the amendment on the date of deposit of acceptances by a majority of the States which were Parties at the date of adoption of the amendment. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs and administrative tasks

1. The costs of the Meetings of States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not party to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

3. The performance by the Secretary-General of the United Nations of administrative tasks assigned to him or her under this Convention is subject to an appropriate United Nations mandate.

Article 15

Signature

This Convention, done at Dublin on 30 May 2008, shall be open for signature at Oslo by all States on 3 December 2008 and thereafter at United Nations Headquarters in New York until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval by the Signatories.

2. It shall be open for accession by any State that has not signed the Convention.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17
Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the thirtieth instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18
Provisional application

Any State may, at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 1 of this Convention pending its entry into force for that State.

Article 19
Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20
Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

Article 21
Relations with States not party to this Convention

1. Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention.
2. Each State Party shall notify the governments of all States not party to this Convention, referred to in paragraph 3 of this Article, of its obligations under this

Convention, shall promote the norms it establishes and shall make its best efforts to discourage States not party to this Convention from using cluster munitions.

3. Notwithstanding the provisions of Article 1 of this Convention and in accordance with international law, States Parties, their military personnel or nationals, may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party.

4. Nothing in paragraph 3 of this Article shall authorise a State Party:
- (a) To develop, produce or otherwise acquire cluster munitions;
 - (b) To itself stockpile or transfer cluster munitions;
 - (c) To itself use cluster munitions; or
 - (d) To expressly request the use of cluster munitions in cases where the choice of munitions used is within its exclusive control.

Article 22
Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 23
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be equally authentic.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/1

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 11
Meetings of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the ~~interpretation~~, application or implementation of this Convention, including:

- (a) The operation and status of this Convention;
- (b) Matters arising from the reports submitted under the provisions of this Convention;
- (c) International cooperation and assistance in accordance with Article 6 of this Convention;
- (d) The development of technologies to clear cluster munition remnants;
- (e) Submissions of States Parties under Articles 8 and 10 of this Convention; and
- (f) Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The First Meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

3. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, **the International Federation of Red Cross and Red Crescent Societies** and relevant non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/2

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 12
Review Conferences

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.
2. The purpose of the Review Conference shall be:
 - (a) To review the operation and status of this Convention;
 - (b) To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11 of this Convention; and
 - (c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.
3. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, **the International Federation of Red Cross and Red Crescent Societies** and relevant non-governmental organisations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/3

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 13
Amendments

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the ~~Depositary~~ **Secretary-General of the United Nations**, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notifies the ~~Depositary~~ **Secretary-General**, no later than ~~30~~ **90** days after its circulation that they support further consideration of the proposal, the ~~Depositary~~ **Secretary-General**, shall convene an Amendment Conference to which all States Parties shall be invited.
2. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross and relevant non-governmental organisations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.
3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties requests that it be held earlier.
4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The ~~Depositary~~ **Secretary-General** shall communicate any amendment so adopted to ~~the~~ **all States Parties**.
5. An amendment to this Convention shall enter into force for ~~all~~ States Parties to ~~this Convention~~ that have accepted **the amendment** ~~it upon~~ **on the date of** deposit with the ~~Depositary of instruments of acceptances~~ by a majority of ~~the~~ **States Parties which were Parties at the date of adoption of the amendment**. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/4

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 15
Signature

This Convention, done at (...), on (...), shall be open for signature at (...), by all States from (...) until (...), and at the United Nations Headquarters in New York from (...) until its entry into force.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/5

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval of the Signatories.
2. It shall be open for accession by any State that has not signed the Convention.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/6

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 21
Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/7

21 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 22
Authentic texts

~~The original of this Convention, of which~~ **The** Arabic, Chinese, English, French, Russian and Spanish texts **of this Convention** ~~are~~ **shall be** equally authentic. ~~It shall~~
~~be deposited with the Secretary-General of the United Nations.~~

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/8

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures, **to implement this Convention**, including the imposition of penal sanctions; to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/9

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 10
Settlement of disputes

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of the States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.
2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/10

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 14

Costs

1. The costs of the Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.
2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/11

22 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 20

Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.
4. ~~The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.~~

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/12

23 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary on Victim Assistance

Preamble

The States Parties to this Convention,

[...]

Determined to ensure the full realisation of the rights of ~~victims of cluster munitions~~
all cluster munition victims and recognising their inherent dignity,

Resolved to do their utmost in providing assistance **to cluster munition victims**, for
the **including** medical care, ~~and~~ rehabilitation, **and** psychological **support** ~~and~~ **as**
well as for their social and economic inclusion ~~of victims of cluster munitions~~,

**Recognising the need to provide age and gender sensitive assistance to cluster
munition victims, and to address the special needs of vulnerable groups,**

Bearing in mind the Convention on the Rights of Persons with Disabilities which,
inter alia, requires that States Parties to that Convention undertake to ensure and
promote the full realisation of all human rights and fundamental freedoms of all
persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need ~~adequately~~ to coordinate **adequately** efforts undertaken in
various fora to address the rights and needs of victims of various types of weapons,
and resolved to avoid discrimination among victims of various types of weapons,

[...]

Article 2
Definitions

For the purposes of this Convention:

“**Cluster munition victims**” means **all** persons who have **been killed or** suffered
physical or psychological injury, economic loss, social marginalisation or substantial
impairment of the realisation of their rights caused by the use of cluster munitions.
They include those persons directly impacted by cluster munitions as well as their
affected families and communities;

[...]

Article 5
Victim Assistance

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with **applicable** international **humanitarian and** human rights law, adequately provide **age and gender sensitive assistance, including** ~~for their~~ medical care, ~~and~~ rehabilitation, **and** psychological support **as well as for their** ~~and~~ social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall: ~~take into consideration relevant guidelines and good practices in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion.~~

- (a) **Assess the needs of cluster munition victims;**
- (b) **Develop, implement and enforce any necessary national laws and policies;**
- (c) **Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating it within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;**
- (d) **Take steps to mobilise national and international resources;**
- (e) **Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical or rehabilitative, psychological or social-economic needs;**
- (f) **Closely consult with and actively involve cluster munition victims and their representative organisations;**
- (g) **Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and**
- (h) **Strive to incorporate relevant guidelines and good practices including in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion.**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/13

26 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 3

Storage and stockpile destruction

1. Each State Party ~~undertakes to remove~~ **shall, in accordance with national regulations, separate** all cluster munitions from ~~stockpiles of~~ munitions retained for operational use ~~and keep them in separate stockpiles~~ **and mark them** for the purpose of destruction.
2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions ~~under jurisdiction and control~~ **referred to in paragraph 1 of this Article** as soon as possible but not later than ~~six~~ **eight** years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within ~~that time~~ **eight years of entry into force of this Convention for that State Party** it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions ~~for~~ **by** a period of up to ~~ten~~ **four** years. **A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.**
4. Each request **for an extension** shall contain:
 - (a) The duration of the proposed extension;
 - (b) A detailed explanation of the ~~reasons for~~ **exceptional circumstances justifying** the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article; ~~and~~
 - (c) A plan for how and when stockpile destruction will be completed;
 - (d) **The quantity and type of cluster munitions and explosive sub-munitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive sub-munitions discovered after entry into force;**
 - (e) **The quantity and type of cluster munitions and explosive sub-munitions destroyed during the period referred to in paragraph 2 of this Article; and**

(f) The quantity and type of cluster munitions and explosive sub-munitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.

5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. **The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.**

6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive sub-munitions for the development of and training in cluster munition and explosive sub-munition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive sub-munitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.

8. States Parties retaining, acquiring or transferring cluster munitions or explosive sub-munitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned use of these cluster munitions and explosive sub-munitions and their type, quantity and lot numbers. If cluster munitions or explosive sub-munitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive sub-munitions and submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/13/Corr.

27 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 3

Storage and stockpile destruction

1. Each State Party ~~undertakes to remove~~ **shall, in accordance with national regulations, separate** all cluster munitions **under its jurisdiction or control** from ~~stockpiles of~~ munitions retained for operational use ~~and keep them in separate stockpiles~~ **and mark them** for the purpose of destruction.
2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions ~~under jurisdiction and control~~ **referred to in paragraph 1 of this Article** as soon as possible but not later than six **eight** years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.
3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within ~~that time~~ **eight years of entry into force of this Convention for that State Party** it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions ~~for~~ **by** a period of up to ~~ten~~ **four** years. **A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.**
4. Each request **for an extension** shall contain:
 - (a) The duration of the proposed extension;
 - (b) A detailed explanation of the ~~reasons for~~ **exceptional circumstances justifying** the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article; ~~and~~
 - (c) A plan for how and when stockpile destruction will be completed;
 - (d) **The quantity and type of cluster munitions and explosive sub-munitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive sub-munitions discovered after entry into force;**
 - (e) **The quantity and type of cluster munitions and explosive sub-munitions destroyed during the period referred to in paragraph 2 of this Article; and**

(f) The quantity and type of cluster munitions and explosive sub-munitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.

5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. **The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.**

6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive sub-munitions for the development of and training in cluster munition and explosive sub-munition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive sub-munitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.

8. States Parties retaining, acquiring or transferring cluster munitions or explosive sub-munitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned use of these cluster munitions and explosive sub-munitions and their type, quantity and lot numbers. If cluster munitions or explosive sub-munitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive sub-munitions and submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/14

27 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Text transmitted to the Plenary

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.
2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a Request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.
3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.
4. Pending the convening of any Meeting of States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.
5. Where a matter has been submitted to it pursuant to paragraph 3 of this Article the Meeting of States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine the Meeting of States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of States

Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 5 6 of this Convention.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article the Meeting of States Parties may decide to adopt such other general procedures or specific mechanisms for clarification of compliance, including facts, and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/PT/15

28 May 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

Presidency Paper

draft Convention on Cluster Munitions

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to bear the brunt of armed conflict,

Determined to put an end for all time to the suffering and casualties caused by cluster munitions at the time of their use, when they fail to function as intended or when they are abandoned,

Concerned that cluster munition remnants kill or maim civilians, including women and children, obstruct economic and social development, including through the loss of livelihood, impede post-conflict rehabilitation and reconstruction, delay or prevent the return of refugees and internally displaced persons, can negatively impact on national and international peace-building and humanitarian assistance efforts, and have other severe consequences that can persist for many years after use,

Deeply concerned also at the dangers presented by the large national stockpiles of cluster munitions retained for operational use and determined to ensure their rapid destruction,

Believing it necessary to contribute effectively in an efficient, coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to ensure their destruction,

Determined also to ensure the full realisation of the rights of all cluster munition victims and recognising their inherent dignity,

Resolved to do their utmost in providing assistance to cluster munition victims, including medical care, rehabilitation, and psychological support, as well as for their social and economic inclusion,

Recognising the need to provide age and gender sensitive assistance to cluster munition victims, and to address the special needs of vulnerable groups,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and resolved to avoid discrimination among victims of various types of weapons,

Determined further that in cases not covered by this Convention or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law, derived from established custom, from the principles of humanity and from the dictates of public conscience,

Resolved also that armed groups distinct from the armed forces of a State shall not, under any circumstances, be permitted to engage in any activity prohibited to a State Party to this Convention,

Welcoming the very broad international support for the international norm prohibiting anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the adoption of the Protocol on Explosive Remnants of War, annexed 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 and its entry into force on 12 November 2006, and wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Bearing in mind also United Nations Security Council Resolution 1325 on women, peace and security and United Nations Security Council Resolution 1612 on children in armed conflict,

Welcoming further the steps taken nationally, regionally and globally in recent years, aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and recognising the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which States, *inter alia*, recognised the grave consequences caused by the use of cluster munitions and committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and would establish a framework for cooperation and assistance that provides adequate provision of care and rehabilitation for victims, clearance of contaminated areas, risk reduction education and destruction of stockpiles,

Emphasising the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalisation and its full implementation,

Basing themselves on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and the rules that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against military objectives only, that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,

HAVE AGREED as follows:

Article 1

General obligations and scope of application

4. Each State Party undertakes never under any circumstances to:
 - (a) Use cluster munitions;
 - (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.
5. Paragraph 1 of this Article applies, *mutatis mutandis*, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft.
6. This Convention does not apply to mines.

Article 2

Definitions

For the purposes of this Convention:

1. **“Cluster munition victims”** means all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities;
2. **“Cluster munition”** means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:
 - (d) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;

- (e) A munition or submunition designed to produce electrical or electronic effects;
 - (f) A munition, that in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
 - (i) Each munition contains fewer than 10 explosive submunitions;
 - (ii) Each explosive submunition weighs more than four kilograms;
 - (iii) Each explosive submunition is designed to detect and engage a single target object;
 - (iv) Each explosive submunition is equipped with an electronic self-destruction mechanism;
 - (v) Each explosive submunition is equipped with an electronic self-deactivating feature;
3. **“Explosive submunition”** means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact;
 4. **“Failed cluster munition”** means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;
 5. **“Unexploded submunition”** means an explosive submunition which has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended;
 6. **“Abandoned cluster munitions”** means cluster munitions or explosive submunitions that have not been used and that have been left behind or dumped, and that are no longer under the control of the party that left them behind or dumped them. They may or may not have been prepared for use;
 7. **“Cluster munition remnants”** means failed cluster munitions, abandoned cluster munitions, unexploded submunitions and unexploded bomblets;
 8. **“Transfer”** involves, in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants;
 9. **“Self-destruction mechanism”** means an incorporated automatically-functioning mechanism, which is in addition to the primary initiating mechanism of the munition, and which secures the destruction of the munition into which it is incorporated;
 10. **“Self-deactivating”** means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example, a battery, that is essential to the operation of the munition;
 11. **“Cluster munition contaminated area”** means an area known or suspected to contain cluster munition remnants;

12. **“Mine”** means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

13. **“Explosive bomblet”** means a conventional munition, weighing less than 20 kilograms, which is not self-propelled and which in order to perform its task is dispersed or released by a dispenser, and is designed to function by detonating an explosive charge prior to, on or after impact;

14. **“Dispenser”** means a container which is designed to disperse or release explosive bomblets and which is affixed to an aircraft at the time of dispersal or release;

15. **“Unexploded bomblet”** means an explosive bomblet which has been dispersed, released or otherwise separated from a dispenser and has failed to explode as intended.

Article 3

Storage and stockpile destruction

1. Each State Party shall, in accordance with national regulations, separate all cluster munitions under its jurisdiction and control from munitions retained for operational use and mark them for the purpose of destruction.

2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article as soon as possible but not later than eight years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within eight years of entry into force of this Convention for that State Party it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions by a period of up to four years. A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.

4. Each request for an extension shall contain:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article, and where applicable, the exceptional circumstances justifying it;
- (c) A plan for how and when stockpile destruction will be completed;

- (d) The quantity and type of cluster munitions and explosive submunitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive submunitions discovered after entry into force;
- (e) The quantity and type of cluster munitions and explosive submunitions destroyed during the period referred to in paragraph 2 of this Article; and
- (f) The quantity and type of cluster munitions and explosive submunitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.

5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.

6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive submunitions for the development of and training in cluster munition and explosive submunition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive submunitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.

8. States Parties retaining, acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

Article 4

Clearance and destruction of cluster munition remnants and risk reduction education

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction, of cluster munition remnants located in areas under its jurisdiction or control, as follows:

- (a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention

for that State Party, such clearance and destruction shall be completed as soon as possible but not later than 10 years from that date;

- (b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible but not later than 10 years after the end of the active hostilities during which such cluster munitions became cluster munition remnants; and
- (c) Upon fulfilling either of its obligations set out in sub-paragraphs (a) and (b) of this paragraph, that State Party shall make a declaration of compliance to the next Meeting of State Parties.

2. In fulfilling its obligations under paragraph 1 of this Article, each State Party shall take the following measures as soon as possible, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

- (a) Survey and assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control;
- (b) Assess and prioritise needs in terms of marking, protection of civilians and clearance and destruction, and take steps to mobilise resources and develop a national plan to carry out these activities, building, where appropriate, upon existing structures, experiences and methodologies;
- (c) Take all feasible steps to ensure that all cluster munition contaminated areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. Warning signs based on methods of marking readily recognisable by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should, as far as possible, be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the cluster munition contaminated areas and which side is considered to be safe;
- (d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and
- (e) Conduct risk reduction education to ensure awareness among civilians living in or around cluster munition contaminated areas of the risks posed by such remnants.

3. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards (IMAS).

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for that State Party and have become cluster munition remnants, that are located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

- (a) In such cases, upon entry into force of this Convention for both States Parties, the former State Party is encouraged to provide, *inter alia*,

technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the United Nations system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.

- (b) Such assistance shall include, where available, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within 10 years of the entry into force of this Convention for that State Party it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants by a period of up to five years. The requested extension shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 1 of this Article.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall be submitted a minimum of nine months prior to the Meeting of States Parties or Review Conference at which it is to be considered. Each request shall contain:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to and required by the State Party for the clearance and destruction of all cluster munition remnants during the proposed extension;
- (c) The preparation of future work and the status of work already conducted under national clearance and demining programmes during the initial 10 year period referred to in paragraph 1 of this Article and any subsequent extensions;
- (d) The total area containing cluster munition remnants at the time of entry into force of this Convention for that State Party and any additional areas containing cluster munition remnants discovered after such entry into force;
- (e) The total area containing cluster munition remnants cleared since entry into force of this Convention;
- (f) The total area containing cluster munition remnants remaining to be cleared during the proposed extension;
- (g) Circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control during the initial 10 year period referred to in paragraph 1 of this Article, and those that may impede this ability during the proposed extension;
- (h) The humanitarian, social, economic, and environmental implications of the proposed extension; and
- (i) Any other information relevant to the request for the proposed extension.

7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, including, *inter alia*, the quantities of cluster munition remnants reported, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension as appropriate.

8. Such an extension may be renewed by a period of up to five years, upon the submission of a new request in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

Article 5 *Victim assistance*

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age and gender sensitive assistance, including medical care, rehabilitation and psychological support, as well as for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:

- (a) Assess the needs of cluster munition victims;
- (b) Develop, implement and enforce any necessary national laws and policies;
- (c) Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;
- (d) Take steps to mobilise national and international resources;
- (e) Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs;
- (f) Closely consult with and actively involve cluster munition victims and their representative organisations;
- (g) Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and
- (h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion.

Article 6
International cooperation and assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.
2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.
3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision and receipt of clearance and other such equipment and related technological information for humanitarian purposes.
4. In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each State Party in a position to do so shall provide assistance for clearance and destruction of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities.
5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk reduction education, protection of civilians and clearance and destruction as provided in Article 4 of this Convention.
6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State Party in a position to do so shall urgently provide emergency assistance to the affected State Party.
7. Each State Party in a position to do so shall provide assistance for the implementation of the obligations contained in Article 5 to adequately provide age and gender sensitive assistance, including medical care, rehabilitation and psychological support, as well as for social and economic inclusion of cluster munition victims. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organisations or on a bilateral basis.
8. Each State Party in a position to do so shall provide assistance to contribute to the economic and social recovery needed as a result of cluster munition use in affected States Parties.

9. Each State Party in a position to do so may contribute to relevant trust funds in order to facilitate the provision of assistance under this Article.

10. Each State Party that seeks and receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation of the Convention, including facilitation of the entry and exit of personnel, materiel, and equipment, in a manner consistent with national laws and regulations, taking into consideration international best practices.

11. Each State Party may, with the purpose of developing a national action plan, request the United Nations system, regional organisations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

- (a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
- (b) The financial, technological and human resources required for the implementation of the plan;
- (c) The time estimated as necessary to clear all cluster munition remnants located in areas under its jurisdiction or control;
- (d) Risk reduction education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
- (e) Assistance to cluster munition victims; and
- (f) The co-ordination relationship between the Government of the State Party concerned and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the plan.

12. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:

- (a) The national implementation measures referred to in Article 9 of this Convention;
- (b) The total of all cluster munitions, including explosive submunitions, referred to in paragraph 1 of Article 3 of this Convention, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
- (c) The technical characteristics of each type of cluster munition produced by that State prior to entry into force of this Convention for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a

minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;

- (d) The status and progress of programmes for the conversion or de-commissioning of production facilities for cluster munitions;
- (e) The status and progress of programmes for the destruction, in accordance with Article 3 of this Convention, of cluster munitions, including explosive submunitions, with details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
- (f) The types and quantities of cluster munitions, including explosive submunitions, destroyed in accordance with Article 3 of this Convention, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;
- (g) Stockpiles of cluster munitions, including explosive submunitions, discovered after reported completion of the programme referred to in sub-paragraph (e) of this paragraph, and plans for their destruction in accordance with Article 3 of this Convention;
- (h) To the extent possible, the location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition in each such area and when they were used;
- (i) The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention, to include the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnants cleared and destroyed;
- (j) The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in areas under its jurisdiction or control in which cluster munition remnants are located;
- (k) The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age and gender sensitive assistance, including medical care, rehabilitation and psychological support, as well as for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims;
- (l) The name and contact details of the institutions mandated to provide information and to carry out the measures described in this paragraph;
- (m) The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention; and
- (n) The amounts, types and destinations of international co-operation and assistance provided under Article 6 of this Convention.

2. The information provided in accordance with paragraph 1 of this Article shall be updated by the States Parties annually, covering the previous calendar year, and

reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a Request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.

3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any Meeting of States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

5. Where a matter has been submitted to it pursuant to paragraph 3 of this Article the Meeting of States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine, the Meeting of States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6 of this Convention.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article, the Meeting of States Parties may decide to adopt such other general procedures or

specific mechanisms for clarification of compliance, including facts, and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

Article 10

Settlement of disputes

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

Article 11

Meetings of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of this Convention, including:

- (a) The operation and status of this Convention;
- (b) Matters arising from the reports submitted under the provisions of this Convention;
- (c) International cooperation and assistance in accordance with Article 6 of this Convention;
- (d) The development of technologies to clear cluster munition remnants;
- (e) Submissions of States Parties under Articles 8 and 10 of this Convention; and
- (f) Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The First Meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

3. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed Rules of Procedure.

Article 12 *Review Conferences*

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:

- (a) To review the operation and status of this Convention;
- (b) To consider the need for and the interval between further Meetings of States Parties referred to in paragraph 2 of Article 11 of this Convention; and
- (c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

3. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

Article 13 *Amendments*

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Secretary-General of the United Nations, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Secretary-General no later than 90 days after its circulation that they support further consideration of the proposal, the Secretary-General shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not parties to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross and relevant non-governmental organisations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.

3. The Amendment Conference shall be held immediately following a Meeting of States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to all States.

5. An amendment to this Convention shall enter into force for States Parties that have accepted the amendment on the date of deposit of acceptances by a majority of the States which were Parties at the date of adoption of the amendment. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs and administrative tasks

1. The costs of the Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

3. The performance by the Secretary-General of the United Nations of administrative tasks assigned to him or her under this Convention is subject to an appropriate United Nations mandate.

Article 15

Signature

This Convention, done at Dublin, on 30 May 2008, shall be open for signature at Oslo, by all States from (...December) until (...December), and at the United Nations Headquarters in New York from (...) until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval of the Signatories.

2. It shall be open for accession by any State that has not signed the Convention.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17
Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 30th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 30th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18
Provisional application

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 1 of this Convention pending its entry into force for that State.

Article 19
Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20
Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

Article 21
Relations with States not party to this Convention

1. Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention.
2. Each State Party shall notify the governments of all States not party to this Convention, referred to in paragraph 3 of this Article, of its obligations under this

Convention, shall promote the norms it establishes and shall make its best efforts to discourage States not party to this Convention from using cluster munitions.

3. Notwithstanding the provisions of Article 1 of this Convention and in accordance with international law, States Parties, their military personnel or nationals, may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party.

4. Nothing in paragraph 3 of this Article shall authorise a State Party:
- (a) To develop, produce or otherwise acquire cluster munitions;
 - (b) To itself stockpile or transfer cluster munitions;
 - (c) To itself use cluster munitions; or
 - (d) To expressly request the use of cluster munitions in cases where the choice of munitions used is within its exclusive control.

Article 22
Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 23
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be equally authentic.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CRP/1

19 May 2008
ENGLISH ONLY

DUBLIN 19 – 30 MAY 2008

PERSPECTIVES AND CONSIDERED POSITION OF THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA ON THE GLOBAL PROCESS TO CONCLUDE A LEGALLY BINDING INTERNATIONAL TREATY AIMED AT BANNING CLUSTER MUNITIONS

1. The Government of the Federal Democratic Republic of Ethiopia (FDRE) has been keenly following the many encouraging developments witnessed in the course of the past sixteen months since the launch of the Oslo Process, in February 2007, towards the eventual achievement of a comprehensive global ban on Cluster Munitions by means of a legally binding international treaty now being concluded to this effect. The fundamental reasons underlying such a keen interest, certainly shared by others in a similar situation, are closely linked to some well-placed concerns which may be explained by the fact that:
 - Ethiopia knows the indiscriminate and unacceptable harmful effects of these destructive weapons from its own tragic experience in recent history;
 - These lethal devices are still a commonplace rampantly circulating in huge abundance through both licit and illicit channels in the day-to-day reality of its own turbulent sub-region (the Horn of Africa), which is a damping ground for various external sources that heedlessly supply assorted explosives of this type to belligerent parties to a conflict, including non-state actors and even terrorist organizations;
 - Any global endeavour geared towards the conclusion of an international legal instrument aimed at curbing the hitherto uncontrolled use, production, transfer and stockpiling of cluster munitions essentially requires the full and unwavering conviction, support participation and practical commitment of all concerned states (big and small; developed and developing) for want of its unfettered implementation, as desired;
 - The particular dimension and significance that such a global endeavour assumes from a regional perspective, in which it requires the indiscriminate allegiance of all concerned, should be critically considered: it cannot afford to be elected by some while being rejected/ignored by others in as much as they are fated to affect one another through proximate inter-state actions and interactions, hence the imperative to ensure collective responsibility in such a setting, *fortiori* ; and,
 - Given empirical experiences drawn from the implementation of other previously adopted international instruments of a similar nature, the question of affording sufficient and reliable treaty-based guarantees to protect and vindicate those state parties strictly amenable to their legally committed obligations in face of possible contraventions by others, be it through individual defiance, outside intervention/instigation or an act of conspiracy

threatening the interest/existence of the law-abiding party, remains to be crucial.

2. Each major turn taken since the onset of the whole Oslo Process, particularly the understandings reached, the different perspectives registered, the milestone declarations issued and the draft convention developed through the successive international conferences (held in Lima, Vienna, and Willington, respectively after Oslo) as well as the corresponding regional consultations (convened in Brussels, Belgrade, San José, Livingstone) that deliberated on this very subject have therefore been carefully studied in light of the aforementioned critical concerns, and from the viewpoint of the overall stated policy being pursued by the Government of the FDRE in this particular area. It should also be noted that Ethiopia was one of the 22 countries, 8 them being African including itself, which attended the Belgrade Conference in October 2007 that brought together those most affected states from various parts of the world to confer around the initiative for the first time.

Thus, taken together, what has been accomplished so far in promoting the ideal objectives of the Oslo Process, along the direction charted out more than a year ago, can be summed up as truly remarkable with scores of considerable positive achievements. This being said, however, there remains still much to be desired in adequately addressing the kinds of concerns reflected above within the framework of the draft convention that has now been brought before the Dublin Diplomatic Conference.

3. As it stands in its current content and form, the draft Convention for the Prohibition of the Use, Production, Transfer and Stockpiling of Cluster Munitions can serve as a bulwark that can be used to accommodate the interests, concerns and apprehensions of all state parties and stakeholders that may be directly or indirectly negotiating this landmark international instrument. For its part, Ethiopia remains anxious to see an improved text of the draft convention for which it is determined to play a constructive role and to make a positive contribution in its present capacity as an observer at the Dublin Diplomatic Conference. The fact that Ethiopia has, for the time being, opted to take an observer seat at this Conference should not, however, cast any doubt on its acceptance of, and commitment to the Oslo Process, which it principally and, to a large extent, substantively supports, as demonstrated by its participation at the Vienna and the Belgrade Conferences.
4. In this regard, one may need to recall Ethiopia's strong track record in scrupulously implementing the purpose, objectives and obligations stipulated in the Convention on Conventional Weapons (CCW) on its own part as a party to the latter. More importantly, it is known that Ethiopia was one of those few the forerunning state parties which advocated, negotiated and endorsed the Ottawa Mine Ban Convention, whose membership has now reached 156 countries, as well as the United Nations resolution and plan of action for the prohibition of illicit trafficking in Small Arms and Light Weapons (SALW), including its regional platform of cooperation based in Nairobi, Kenya.

Nevertheless, due to the long-known turbulence and conflict-ridden nature of the particular sub-region where Ethiopia belongs, and the negative intervention of various external actors that use the region as a dumping ground as well as a conduit for

countless assorted mines and munitions, the otherwise desired implementation of these instruments has largely remained in vain for lack of equal commitment, at least in respect of that sub-region. Such a precarious situation leaves some faithfully treaty-bound states unduly disadvantaged and jeopardised by the manipulative acts of others. This is what Ethiopia does not wish to see happening with the new Cluster Munitions Convention, yet again; and that's why it prefers to act cautiously, lest the realization of the new convention's lofty ideals would not be similarly frustrated for lack of shared foresight and precaution.

5. Thus, the Government of the FDRE desires to draw the above-mentioned serious concerns upon the Diplomatic Conference being held in Dublin to negotiate on the substantive and legal details of the draft Convention banning Cluster Munitions. On a more particular note, the Government wishes to state its firm position that:
 - As far as countries belonging to a specific region or sub-region (like the Horn of Africa) are concerned, the draft Convention should not be merely confined to the securing of a wider headcount of individual nations membership, and to the ensuring of their commitment on an isolated basis as a party to the Convention. It should rather be made to seek the simultaneous membership, and count on the evenly balanced commitment of all states in that particular region/sub-region by taking them as a group, and addressing them collectively. This would consequently create the necessary legal ground for the enforcement of individual and collective responsibility of all concerned; hence ensure an evenly distributed and scrupulous implementation of the contemplated Convention.
 - The draft Convention should, concurrently with the above, contain distinct provisions catering for the effective and timely protection of those treaty-bound states which may find themselves threatened by the acts or omissions of others. Alternatively put, this is to mean that the Convention should be able to offer solid legal guarantees that could be invoked in the event of its possible contravention by a state party, as well as through the manipulative manoeuvrings of third/external parties, including even non-state actors, as a reliable recourse mechanism readily available for those rightful victims who may have to be adequately redressed/vindicated.
 - The United Nations, more pertinently the Security Council - as a vanguard of international peace and security – should, in close collaboration with the relevant regional organizations, be called upon to assume their deserved role and responsibility in ensuring the unfettered implementation of the contemplated Convention by enabling the strict enforcement of its critical provisions, like the ones suggested above, including though the application of Chapter VII measures under the United Nations Charter, so as to properly discipline the wrongdoing party, where deemed necessary.
 - In the interest of producing a meticulously prepared international legal instrument agreeable to all, and to responsively address the kinds of concerns outlined above, it remains imperative to ensure that the draft Convention under negotiation is made to be firmly anchored on the findings of an objective, sober and comprehensive assessment of the practical implementation of the Convention on Conventional Weapons (CCW), as well as those treaties and resolutions adopted under the CCW regime, with a particular focus on the major challenges and shortcomings encountered, lest similar problems would not recur to frustrate the new Convention.

Contingent upon the above, Ethiopia would wholeheartedly support the on-going treaty-making process, along with a solemn pledge to ensure the realization of its lofty ideals through global/regional collaboration and the discharging of individual treaty obligations.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/CRP/2

30 May 2008
ENGLISH ONLY

DUBLIN 19 – 30 MAY 2008

Statement by the Government of Iceland upon the adoption of the Convention on Cluster Munitions Dublin

The Government of Iceland fully supports the Convention on Cluster Munitions adopted in Dublin today and expresses its appreciation for the cooperation which has led to this result.

Although many of the provisions of the Convention reflect the need to reach political compromises during the negotiations, the States concerned, having agreed on the form of a legally binding treaty, have brought the results into the realm of international law. States Parties will thus be guided in their interpretation and application of the Convention by the rules of international law, in particular, International Humanitarian Law and the Law of Treaties, including the overarching principle of good faith performance (1969 Vienna Convention on the Law of Treaties, article 26), with the concomitant rules on State Responsibility, including on attributability (e.g. International Law Commission Articles on State Responsibility, Chapter II).

Specifically, the language in Article 21 on relations between States Parties and States not parties to the Convention was drafted to deal with particular concerns on the operability of the Convention in cases where a State Party engages in military cooperation with a State not a party to the Convention. While the article sets out an appeal to States which are not parties to join the regime of the Convention, it recognizes the need for continuing cooperation in what is hoped will be a short transition period. This intention is captured clearly in paragraph 3 of the Article which should not be read as entitling States Parties to avoid their specific obligations under the Convention for this limited purpose. The decision to reinforce this position by listing some examples in paragraph 4 cannot therefore be interpreted to allow departures in other respects.

Annex V

LIST OF DELEGATES

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/INF/1

30 May 2008
ENGLISH ONLY

DUBLIN 19 – 30 MAY 2008

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PART II
CONVENTION ON CLUSTER MUNITIONS

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/77

30 May 2008
Original: ENGLISH
FRENCH
SPANISH

DUBLIN 19 – 30 MAY 2008

Convention on Cluster Munitions

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to bear the brunt of armed conflict,

Determined to put an end for all time to the suffering and casualties caused by cluster munitions at the time of their use, when they fail to function as intended or when they are abandoned,

Concerned that cluster munition remnants kill or maim civilians, including women and children, obstruct economic and social development, including through the loss of livelihood, impede post-conflict rehabilitation and reconstruction, delay or prevent the return of refugees and internally displaced persons, can negatively impact on national and international peace-building and humanitarian assistance efforts, and have other severe consequences that can persist for many years after use,

Deeply concerned also at the dangers presented by the large national stockpiles of cluster munitions retained for operational use and *determined* to ensure their rapid destruction,

Believing it necessary to contribute effectively in an efficient, coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to ensure their destruction,

Determined also to ensure the full realisation of the rights of all cluster munition victims and *recognising* their inherent dignity,

Resolved to do their utmost in providing assistance to cluster munition victims, including medical care, rehabilitation and psychological support, as well as providing for their social and economic inclusion,

Recognising the need to provide age- and gender-sensitive assistance to cluster munition victims and to address the special needs of vulnerable groups,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and *resolved* to avoid discrimination among victims of various types of weapons,

Reaffirming that in cases not covered by this Convention or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law, derived from established custom, from the principles of humanity and from the dictates of public conscience,

Resolved also that armed groups distinct from the armed forces of a State shall not, under any circumstances, be permitted to engage in any activity prohibited to a State Party to this Convention,

Welcoming the very broad international support for the international norm prohibiting anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the adoption of the Protocol on Explosive Remnants of War, annexed 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, and its entry into force on 12 November 2006, and *wishing* to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Bearing in mind also United Nations Security Council Resolution 1325 on women, peace and security and United Nations Security Council Resolution 1612 on children in armed conflict,

Welcoming further the steps taken nationally, regionally and globally in recent years aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and *recognising* the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which, *inter alia*, States recognised the grave consequences caused by the use of cluster munitions and committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and would establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation for victims, clearance of contaminated areas, risk reduction education and destruction of stockpiles,

Emphasising the desirability of attracting the adherence of all States to this Convention, and *determined* to work strenuously towards the promotion of its universalisation and its full implementation,

Basing themselves on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and the rules that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against military objectives only, that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,

HAVE AGREED as follows:

Article 1

General obligations and scope of application

7. Each State Party undertakes never under any circumstances to:
 - (a) Use cluster munitions;
 - (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
 - (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.
8. Paragraph 1 of this Article applies, *mutatis mutandis*, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft.
9. This Convention does not apply to mines.

Article 2

Definitions

For the purposes of this Convention:

1. **“Cluster munition victims”** means all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities;
2. **“Cluster munition”** means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:
 - (g) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;

- (h) A munition or submunition designed to produce electrical or electronic effects;
 - (i) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
 - (i) Each munition contains fewer than ten explosive submunitions;
 - (ii) Each explosive submunition weighs more than four kilograms;
 - (iii) Each explosive submunition is designed to detect and engage a single target object;
 - (iv) Each explosive submunition is equipped with an electronic self-destruction mechanism;
 - (v) Each explosive submunition is equipped with an electronic self-deactivating feature;
3. **“Explosive submunition”** means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact;
 4. **“Failed cluster munition”** means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;
 5. **“Unexploded submunition”** means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended;
 6. **“Abandoned cluster munitions”** means cluster munitions or explosive submunitions that have not been used and that have been left behind or dumped, and that are no longer under the control of the party that left them behind or dumped them. They may or may not have been prepared for use;
 7. **“Cluster munition remnants”** means failed cluster munitions, abandoned cluster munitions, unexploded submunitions and unexploded bomblets;
 8. **“Transfer”** involves, in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants;
 9. **“Self-destruction mechanism”** means an incorporated automatically-functioning mechanism which is in addition to the primary initiating mechanism of the munition and which secures the destruction of the munition into which it is incorporated;
 10. **“Self-deactivating”** means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition;
 11. **“Cluster munition contaminated area”** means an area known or suspected to contain cluster munition remnants;

12. “**Mine**” means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

13. “**Explosive bomblet**” means a conventional munition, weighing less than 20 kilograms, which is not self-propelled and which, in order to perform its task, is dispersed or released by a dispenser, and is designed to function by detonating an explosive charge prior to, on or after impact;

14. “**Dispenser**” means a container that is designed to disperse or release explosive bomblets and which is affixed to an aircraft at the time of dispersal or release;

15. “**Unexploded bomblet**” means an explosive bomblet that has been dispersed, released or otherwise separated from a dispenser and has failed to explode as intended.

Article 3

Storage and stockpile destruction

1. Each State Party shall, in accordance with national regulations, separate all cluster munitions under its jurisdiction and control from munitions retained for operational use and mark them for the purpose of destruction.

2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article as soon as possible but not later than eight years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 of this Article within eight years of entry into force of this Convention for that State Party it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions by a period of up to four years. A State Party may, in exceptional circumstances, request additional extensions of up to four years. The requested extensions shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 2 of this Article.

4. Each request for an extension shall set out:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article and, where applicable, the exceptional circumstances justifying it;
- (c) A plan for how and when stockpile destruction will be completed;

- (d) The quantity and type of cluster munitions and explosive submunitions held at the entry into force of this Convention for that State Party and any additional cluster munitions or explosive submunitions discovered after such entry into force;
- (e) The quantity and type of cluster munitions and explosive submunitions destroyed during the period referred to in paragraph 2 of this Article; and
- (f) The quantity and type of cluster munitions and explosive submunitions remaining to be destroyed during the proposed extension and the annual destruction rate expected to be achieved.

5. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate. A request for an extension shall be submitted a minimum of nine months prior to the Meeting of States Parties or the Review Conference at which it is to be considered.

6. Notwithstanding the provisions of Article 1 of this Convention, the retention or acquisition of a limited number of cluster munitions and explosive submunitions for the development of and training in cluster munition and explosive submunition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive submunitions retained or acquired shall not exceed the minimum number absolutely necessary for these purposes.

7. Notwithstanding the provisions of Article 1 of this Convention, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 6 of this Article, is permitted.

8. States Parties retaining, acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations no later than 30 April of the following year.

Article 4

Clearance and destruction of cluster munition remnants and risk reduction education

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of, cluster munition remnants located in cluster munition contaminated areas under its jurisdiction or control, as follows:
 - (a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention for that State Party, such clearance and destruction shall be completed as soon as possible but not later than ten years from that date;
 - (b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible but not later than ten years after the end of the active hostilities during which such cluster munitions became cluster munition remnants; and
 - (c) Upon fulfilling either of its obligations set out in sub-paragraphs (a) and (b) of this paragraph, that State Party shall make a declaration of compliance to the next Meeting of States Parties.

2. In fulfilling its obligations under paragraph 1 of this Article, each State Party shall take the following measures as soon as possible, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:
 - (a) Survey, assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control;
 - (b) Assess and prioritise needs in terms of marking, protection of civilians, clearance and destruction, and take steps to mobilise resources and develop a national plan to carry out these activities, building, where appropriate, upon existing structures, experiences and methodologies;
 - (c) Take all feasible steps to ensure that all cluster munition contaminated areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. Warning signs based on methods of marking readily recognisable by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should, as far as possible, be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the cluster munition contaminated areas and which side is considered to be safe;
 - (d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and
 - (e) Conduct risk reduction education to ensure awareness among civilians living in or around cluster munition contaminated areas of the risks posed by such remnants.

3. In conducting the activities referred to in paragraph 2 of this Article, each State Party shall take into account international standards, including the International Mine Action Standards (IMAS).

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for that State Party and have become cluster munition remnants that are located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

- (a) In such cases, upon entry into force of this Convention for both States Parties, the former State Party is strongly encouraged to provide, *inter alia*, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the United Nations system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.
- (b) Such assistance shall include, where available, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within ten years of the entry into force of this Convention for that State Party, it may submit a request to a Meeting of States Parties or a Review Conference for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants by a period of up to five years. The requested extension shall not exceed the number of years strictly necessary for that State Party to complete its obligations under paragraph 1 of this Article.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall be submitted a minimum of nine months prior to the Meeting of States Parties or Review Conference at which it is to be considered. Each request shall set out:

- (a) The duration of the proposed extension;
- (b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to and required by the State Party for the clearance and destruction of all cluster munition remnants during the proposed extension;
- (c) The preparation of future work and the status of work already conducted under national clearance and demining programmes during the initial ten year period referred to in paragraph 1 of this Article and any subsequent extensions;
- (d) The total area containing cluster munition remnants at the time of entry into force of this Convention for that State Party and any additional areas containing cluster munition remnants discovered after such entry into force;
- (e) The total area containing cluster munition remnants cleared since entry into force of this Convention;

- (f) The total area containing cluster munition remnants remaining to be cleared during the proposed extension;
- (g) The circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control during the initial ten year period referred to in paragraph 1 of this Article, and those that may impede this ability during the proposed extension;
- (h) The humanitarian, social, economic and environmental implications of the proposed extension; and
- (i) Any other information relevant to the request for the proposed extension.

7. The Meeting of States Parties or the Review Conference shall, taking into consideration the factors referred to in paragraph 6 of this Article, including, *inter alia*, the quantities of cluster munition remnants reported, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension. The States Parties may decide to grant a shorter extension than that requested and may propose benchmarks for the extension, as appropriate.

8. Such an extension may be renewed by a period of up to five years upon the submission of a new request, in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension a State Party shall submit relevant additional information on what has been undertaken during the previous extension granted pursuant to this Article.

Article 5 *Victim assistance*

1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:

- (a) Assess the needs of cluster munition victims;
- (b) Develop, implement and enforce any necessary national laws and policies;
- (c) Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors;
- (d) Take steps to mobilise national and international resources;
- (e) Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be

based only on medical, rehabilitative, psychological or socio-economic needs;

- (f) Closely consult with and actively involve cluster munition victims and their representative organisations;
- (g) Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and
- (h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.

Article 6

International cooperation and assistance

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.

2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.

3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision and receipt of clearance and other such equipment and related technological information for humanitarian purposes.

4. In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention, each State Party in a position to do so shall provide assistance for clearance and destruction of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities.

5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk reduction education, protection of civilians and clearance and destruction as provided in Article 4 of this Convention.

6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State Party in a position to do so shall urgently provide emergency assistance to the affected State Party.

7. Each State Party in a position to do so shall provide assistance for the implementation of the obligations referred to in Article 5 of this Convention to adequately provide age- and gender-sensitive assistance, including medical care,

rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims. Such assistance may be provided, *inter alia*, through the United Nations system, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent Societies and their International Federation, non-governmental organisations or on a bilateral basis.

8. Each State Party in a position to do so shall provide assistance to contribute to the economic and social recovery needed as a result of cluster munition use in affected States Parties.

9. Each State Party in a position to do so may contribute to relevant trust funds in order to facilitate the provision of assistance under this Article.

10. Each State Party that seeks and receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation of this Convention, including facilitation of the entry and exit of personnel, materiel and equipment, in a manner consistent with national laws and regulations, taking into consideration international best practices.

11. Each State Party may, with the purpose of developing a national action plan, request the United Nations system, regional organisations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

- (a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
- (b) The financial, technological and human resources required for the implementation of the plan;
- (c) The time estimated as necessary to clear and destroy all cluster munition remnants located in areas under its jurisdiction or control;
- (d) Risk reduction education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
- (e) Assistance to cluster munition victims; and
- (f) The coordination relationship between the government of the State Party concerned and the relevant governmental, intergovernmental or non-governmental entities that will work in the implementation of the plan.

12. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

Article 7

Transparency measures

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party, on:

- (a) The national implementation measures referred to in Article 9 of this Convention;
- (b) The total of all cluster munitions, including explosive submunitions, referred to in paragraph 1 of Article 3 of this Convention, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;
- (c) The technical characteristics of each type of cluster munition produced by that State Party prior to entry into force of this Convention for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;
- (d) The status and progress of programmes for the conversion or decommissioning of production facilities for cluster munitions;
- (e) The status and progress of programmes for the destruction, in accordance with Article 3 of this Convention, of cluster munitions, including explosive submunitions, with details of the methods that will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
- (f) The types and quantities of cluster munitions, including explosive submunitions, destroyed in accordance with Article 3 of this Convention, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;
- (g) Stockpiles of cluster munitions, including explosive submunitions, discovered after reported completion of the programme referred to in sub-paragraph (e) of this paragraph, and plans for their destruction in accordance with Article 3 of this Convention;
- (h) To the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition remnant in each such area and when they were used;
- (i) The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention, to include the size and location of the cluster munition contaminated area cleared and a breakdown of the quantity of each type of cluster munition remnant cleared and destroyed;
- (j) The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control;
- (k) The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims;

- (l) The name and contact details of the institutions mandated to provide information and to carry out the measures described in this paragraph;
 - (m) The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention; and
 - (n) The amounts, types and destinations of international cooperation and assistance provided under Article 6 of this Convention.
2. The information provided in accordance with paragraph 1 of this Article shall be updated by the States Parties annually, covering the previous calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.
3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

Article 8

Facilitation and clarification of compliance

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.
2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.
3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.
4. Pending the convening of any Meeting of States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.
5. Where a matter has been submitted to it pursuant to paragraph 3 of this Article, the Meeting of States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties

concerned. If it does so determine, the Meeting of States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 6 of this Convention.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article, the Meeting of States Parties may decide to adopt such other general procedures or specific mechanisms for clarification of compliance, including facts, and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

Article 9

National implementation measures

Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

Article 10

Settlement of disputes

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

Article 11

Meetings of States Parties

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of this Convention, including:

- (a) The operation and status of this Convention;
- (b) Matters arising from the reports submitted under the provisions of this Convention;
- (c) International cooperation and assistance in accordance with Article 6 of this Convention;
- (d) The development of technologies to clear cluster munition remnants;

- (e) Submissions of States Parties under Articles 8 and 10 of this Convention; and
- (f) Submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

2. The first Meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend these meetings as observers in accordance with the agreed rules of procedure.

Article 12 *Review Conferences*

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:
- (a) To review the operation and status of this Convention;
 - (b) To consider the need for and the interval between further Meetings of States Parties referred to in paragraph 2 of Article 11 of this Convention; and
 - (c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4 of this Convention.

3. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Review Conference as observers in accordance with the agreed rules of procedure.

Article 13 *Amendments*

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Secretary-General of the United Nations, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notify the Secretary-General

of the United Nations no later than 90 days after its circulation that they support further consideration of the proposal, the Secretary-General of the United Nations shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not party to this Convention, as well as the United Nations, other relevant international organisations or institutions, regional organisations, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and relevant non-governmental organisations may be invited to attend each Amendment Conference as observers in accordance with the agreed rules of procedure.

3. The Amendment Conference shall be held immediately following a Meeting of States Parties or a Review Conference unless a majority of the States Parties request that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to all States.

5. An amendment to this Convention shall enter into force for States Parties that have accepted the amendment on the date of deposit of acceptances by a majority of the States which were Parties at the date of adoption of the amendment. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article 14

Costs and administrative tasks

1. The costs of the Meetings of States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not party to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

3. The performance by the Secretary-General of the United Nations of administrative tasks assigned to him or her under this Convention is subject to an appropriate United Nations mandate.

Article 15

Signature

This Convention, done at Dublin on 30 May 2008, shall be open for signature at Oslo by all States on 3 December 2008 and thereafter at United Nations Headquarters in New York until its entry into force.

Article 16

Ratification, acceptance, approval or accession

1. This Convention is subject to ratification, acceptance or approval by the Signatories.
2. It shall be open for accession by any State that has not signed the Convention.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the sixth month after the month in which the thirtieth instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

Article 18

Provisional application

Any State may, at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 1 of this Convention pending its entry into force for that State.

Article 19

Reservations

The Articles of this Convention shall not be subject to reservations.

Article 20

Duration and withdrawal

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-

month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.

Article 21

Relations with States not party to this Convention

1. Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention.
2. Each State Party shall notify the governments of all States not party to this Convention, referred to in paragraph 3 of this Article, of its obligations under this Convention, shall promote the norms it establishes and shall make its best efforts to discourage States not party to this Convention from using cluster munitions.
3. Notwithstanding the provisions of Article 1 of this Convention and in accordance with international law, States Parties, their military personnel or nationals, may engage in military cooperation and operations with States not party to this Convention that might engage in activities prohibited to a State Party.
4. Nothing in paragraph 3 of this Article shall authorise a State Party:
 - (a) To develop, produce or otherwise acquire cluster munitions;
 - (b) To itself stockpile or transfer cluster munitions;
 - (c) To itself use cluster munitions; or
 - (d) To expressly request the use of cluster munitions in cases where the choice of munitions used is within its exclusive control.

Article 22

Depositary

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

Article 23

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be equally authentic.

PART III

**SUMMARY RECORDS OF THE PUBLIC MEETINGS OF THE
DIPLOMATIC CONFERENCE**

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/SR/1

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**SUMMARY RECORD OF OPENING CEREMONY AND FIRST SESSION OF THE
PLENARY**

Held at Croke Park, Dublin on Monday, 19 May 2008

Chair: Mr. Ó Floinn (Secretary General of the Conference, acting as temporary President)

The meeting was called to order at 10 am.

Mr. Ó Floinn (Secretary General of the Conference) opened the Conference. In his opening statement, he welcomed the delegates to Dublin and said that the decision of the Government of Ireland to host the Conference was a reflection of its commitment to the conclusion this year of a legally binding international instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians. The work begun in Oslo in February last year, and developed in a series of subsequent meetings, had laid a solid foundation for the work of the Conference.

OPENING ADDRESS BY THE MINISTER FOR FOREIGN AFFAIRS OF IRELAND

Mr. Martin (Minister for Foreign Affairs of Ireland) formally opened the proceedings on behalf of the Government of Ireland, which was hosting the Conference. He stated that Ireland's motivation in hosting the Conference was humanitarian. In addition, through their peacekeeping missions abroad, the Irish Defense Forces have considerable practical experience of the problems caused by landmines and unexploded munitions. Ireland was proud to participate in the launch of the Oslo Process in February 2007 and saluted the particular role of the Norwegian Government.

The Minister noted that there was broad consensus that cluster munitions were indiscriminate at the time of use and that their high failure rate created a hazard of unexploded ordnance for civilians in post-conflict environments. At present, international humanitarian law does not adequately address these concerns.

The involvement of civil society from the outset of the Oslo Process was commended. The participation of the International Committee for the Red Cross and UN agencies was also welcomed. It was appropriate that all actors work together for an outcome that would strengthen international humanitarian law.

In hosting the Conference, Ireland was seeking an ambitious outcome, with the widest possible support.

MESSAGE FROM THE SECRETARY-GENERAL OF THE UNITED NATIONS

A video message from Mr. Ban (Secretary-General of the United Nations) was played. The Secretary-General said that disarmament, non-proliferation and arms control activities were challenging and that successes had been few and far between. Some exceptions in recent years had been the Mine Ban Treaty and the recent Protocol on Explosive Remnants of War, agreed under the Convention on Certain Conventional Weapons.

Mr. Ban stated that because cluster munitions are inherently inaccurate and often malfunction, they are particularly indiscriminate and unreliable. The Secretary General called for a legal instrument prohibiting the use, development, production, stockpiling and transfer of cluster munitions that cause unacceptable harm to civilians and for such an instrument to require that current stockpiles be destroyed. In the experience of the UN family of agencies, all cluster munitions used so far cause unacceptable harm to civilians, and should be prohibited.

ADDRESS BY UNITED NATIONS UNDER SECRETARY-GENERAL AND ASSOCIATE ADMINISTRATOR OF THE UNITED NATIONS DEVELOPMENT PROGRAM

Mr. Melkert (Associate Administrator of the UNDP) delivered his address on behalf of the United Nations Mine Action Team, a coalition of 14 UN agencies and programmes. He welcomed the work of UN Member States to address the effects of cluster munitions and the efforts of civil society, in particular, the Cluster Munitions Coalition.

The two issues that should be central to a new treaty to ban cluster munitions are impact and proliferation. Cluster munitions kill and maim individuals. They also leave behind large numbers of unexploded sub-munitions that negatively affect economic development.

The use of cluster munitions on the ground bears no relation to pre-testing under controlled conditions. There is no excuse for the use of cluster munitions that cause unacceptable harm to civilians.

Mr. Melkert reported that, as part of the United Nations' efforts to find solutions to humanitarian challenges, the Secretary-General of the United Nations had agreed to accept depositary duties for a treaty concluded on cluster munitions.

ADDRESS BY THE PRESIDENT OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Dr. Kellenberger (ICRC President) underlined the need for a treaty on cluster munitions, noting the "unacceptable suffering" they inflict. He was optimistic that a new international norm could be created that would have an impact on producers and stockpilers of cluster munitions. He was also confident that the Convention would have an impact on the practices and policies of non-party States in time.

He asked delegates to keep in mind that negotiations ought to be conducted with a sense of urgency. The Conference must find solutions that offer the strongest possible protection to

civilians, which will also be effectively implemented by armed forces. He welcomed the participation of States, UN agencies and civil society.

The ICRC objective was a complete ban on the production, transfer, stockpiling and use of inaccurate and unreliable cluster munitions together with a firm commitment to clearance and victim assistance. The focus on inaccurate and unreliable cluster munitions would encompass those causing the most widespread civilian casualties and was by no means too modest.

ADDRESS BY CLUSTER MUNITION COALITION REPRESENTATIVE

Mr. Kapetanovic (CMC Spokesperson) outlined the history of the Oslo Process and noted the public support behind the process. He recalled that earlier in the morning, 704,000 signatures calling for a comprehensive ban on cluster munitions had been handed to the Irish Minister for Foreign Affairs.

As a survivor, he stated that claims that cluster munitions with better self-destruct mechanisms should be allowed were unacceptable. There was no military necessity justifying the use of cluster munitions. They cannot discriminate between civilians and military targets and their clearance is a slow and expensive task. The CMC called for a comprehensive ban with immediate effect, including a prohibition on any assistance to others in the use of cluster munitions.

Mr. Kapetanovic noted the progress that has been made throughout the Oslo Process and suggested that the draft treaty text had, in some areas, become stronger and better. The CMC was satisfied with the main treaty proposal as it stands.

The meeting was suspended at 10.45 a.m. and resumed at 10.50 a.m.

ELECTION OF THE PRESIDENT OF THE CONFERENCE

The Secretary General of the Conference said that the Government of Ireland had nominated Ambassador Dáithí O'Ceallaigh as President of the Conference and that no other nominations had been received. He proposed that Ambassador O'Ceallaigh be elected President of the Conference by acclamation.

Ambassador O'Ceallaigh was elected President of the Conference by acclamation and took the chair.

ADOPTION OF THE AGENDA

The President proposed the adoption of the draft agenda, as set out in CCM/1.

The Agenda was adopted.

ADOPTION OF THE RULES OF PROCEDURE

The President proposed the adoption of the draft Rules of Procedure, first circulated at Wellington and set out in CCM/2. The Rules were based on rules of procedure observed at

recent diplomatic conferences for the adoption of new instruments of international humanitarian law.

The Rules of Procedure were adopted.

ELECTION OF THE VICE PRESIDENTS OF THE CONFERENCE

The President stated that he had carried out extensive bilateral and regional consultations on candidates for the eight Vice Presidencies. He reported that the following persons had allowed their names to go forward as nominees:

Ambassador Najla Riachi Assaker of Lebanon
Ambassador Jean-Francois Dobelle of France
Ambassador Juan Eduardo Eguiguren of Chile
Ambassador Mohamed Yahya Ould Sidi Haiba of Mauritania
Ambassador Steffen Kongstad of Norway
Ambassador Pablo Macedo of Mexico
Ms. Sheila Mweemba of Zambia
Ambassador Sándor RÁCZ of Hungary

In the absence of objection from any delegation, the President proposed that the above listed persons be duly elected.

It was so decided.

ORGANISATION OF THE WORK OF THE CONFERENCE

The President asked delegations to consider the need for general statements given the short time available. He proposed to hear general statements that morning in Plenary. He proposed to convene the Committee of the Whole at 3 p.m. for the purpose of beginning a detailed discussion of the draft Convention and all relevant proposals. He noted that he did not intend to allow the introduction of text in square brackets into the draft Convention text in either the Committee of the Whole or the Plenary. Each article and relevant proposals would be the subject of a detailed discussion in the Committee of the Whole. Following such discussion, where consensus was found to exist, it was his intention to issue consensus text as a Presidency Text and transmit it to the Plenary. If, following discussion in the Committee of the Whole, general agreement was not forthcoming, the President would appoint a Friend to convene informal consultations in the search for agreement, or convene them himself.

The objective was to conclude work by the evening of Wednesday 28 May, allowing for the preparation of texts in the official languages of the Conference throughout Thursday 29 May with formal adoption on Friday 30 May.

In closing, the President stated that a Convention would be adopted at the conclusion of the Conference and that he intended to make every feasible effort to reach general agreement.

GENERAL STATEMENTS

Zambia presented a statement on behalf of the 39 African States that subscribed to the Livingstone Declaration on Cluster Munitions on 1 April 2008. The Livingstone Declaration

states that “all cluster munitions that cause unacceptable harm must be subject to the negotiations of a legally binding international convention in Dublin that prohibits their production, stockpiling, transfer and use. Such prohibition should be total and immediate from the convention’s entry into force to prevent further suffering”.

These African States further expressed the need to have a treaty that would foster international cooperation on victims, clearance and stockpile destruction. The focus should be on negative humanitarian effects rather than on military utility. Africa should not be a dumping ground for obsolete and destructive weapons.

Zambia stated that it was open to all alternatives to the draft convention text that would enhance the protection of victims.

Morocco stated that at the Wellington Conference it had expressed its concern at the humanitarian disaster caused by cluster munitions. Efforts made by Morocco to clear mines and support victims will be unstinting. Morocco is committed to a balanced solution that must be binding to be efficient and effective. The definition of cluster munitions must be driven by victims and be non-discriminatory.

Norway outlined the historic background leading them to invite States to Oslo in February 2007, beginning an unstoppable international process. Cluster munitions cause humanitarian problems in every conflict where they are used. Unexploded ordnance endangers the lives of citizens by hindering effective use of land and causes economic and development problems. As for military utility, the use of cluster munitions may end up undermining operations and pose a threat to States’ own personnel. The destruction of stockpiles poses technical challenges and, though it is a domestic responsibility, would require international cooperation.

On interoperability, the current draft does not prohibit military cooperation with States not party to the Convention. The issue must be solved without undermining the overarching goal of the Convention.

Mozambique endorsed the statement of Zambia and commended Uganda for its pioneering work. The testimony of victims should strengthen resolve to iron out differences in the text. Mozambique shared its experience of severe humanitarian consequences in the aftermath of war as a result of land mines and other remnants of war that left large portions of land contaminated. In this context, victim assistance is a key point and the text agreed upon must seek to restore victims’ inherent dignity. All States have a moral obligation to respect the principle of distinction in international humanitarian law. The use of cluster munitions has so far failed to uphold this principle, which is the main reason why Mozambique has endorsed the Oslo, Wellington and Livingstone Declarations.

Slovenia made a statement on behalf the **European Union**. All EU Member States participated in the European regional conference held in Brussels in October 2007. The EU welcomed the organisation of work proposed. It continues to consider that parallel efforts should also be pursued in the context of the Convention on Certain Conventional Weapons. The Convention should also take into account existing relevant instruments, in particular Protocol V on the Explosive Remnants of War.

Austria noted the unusual level of transparency and openness with which the Oslo Process had been conducted, allowing delegates in Dublin to negotiate a treaty on an equal footing. Austria recalled the unspeakable suffering caused by cluster munitions. By negotiating a treaty, we could prevent the harm from happening and improve the situation of those who had fallen victim to cluster munitions. Austria called for a comprehensive definition of cluster munitions and stated that victim assistance must be a key element for any new instrument. On a national level, a federal law banning all cluster munitions had been adopted in January 2008.

Indonesia is committed to humanitarian causes and was part of the Oslo Conference and subsequent conferences. Cluster munitions result in explosive remnants of war that continue to harm innocent civilians. The burden of proof must therefore be on user States claiming exceptions for certain kinds of cluster munitions to prove that they do not cause unacceptable effects (noting that there is no such thing as acceptable harm). Indonesia called on those States reluctant to join the Oslo Process to do more to rid the world of cluster munitions. The key issues for the Conference to negotiate in good faith would be definitions, interoperability and transition periods.

The **Holy See** gave priority to the interest of victims and the protection of human dignity. It endorsed a concept of security based on the lowest level of armament as stability and peace are better achieved without recourse to force. The Holy See welcomed the partnership between States, the United Nations, international organisations, the ICRC and NGOs.

Costa Rica noted that the damage done by cluster munitions is often irreversible and engenders migratory flows. The Oslo Process represents an integral solution and the draft Convention from Wellington is a good basis for negotiation. There are no military, technological or financial arguments in favor of cluster munitions. It is vital to have a broad definition to encompass all cluster munitions.

Fiji endorsed the statement of the UN Secretary-General of November 2007 on the atrocious humanitarian impact of cluster munitions and expressed its full support for the work of the Conference.

Australia has a long-standing commitment to addressing the impact of explosive remnants of war, particularly in the Asia Pacific region. A Convention should be focused on its core humanitarian objective, while protecting cooperation, including interoperability, between nations through peacekeeping and peace enforcement. The definition of cluster munitions should be focused on those that cause unacceptable harm while excluding those that do not.

Portugal had been involved in the Oslo Process since the beginning and during its Presidency of the European Union, had carried out various demarches on the issue. Portuguese armed forces do not possess cluster munitions. The draft Convention provides a solid basis for negotiations and Portugal expected that a Convention would be delivered by the end of the Conference.

Germany fully associated itself with the statement made by Slovenia on behalf of the European Union. Germany whole-heartedly supported a Convention containing a comprehensive ban on the use, production, transfer and stockpiling of cluster munitions.

Sudan expressed support for the statement of Zambia. Sudan will work with all in a spirit of constructive engagement and will remain open on possible outcomes.

Tanzania aligned itself with the statement of Zambia. The funds used on cluster munitions should be channeled towards challenges of hunger, drought and natural disasters faced by Africa. Africa should not become a dumping ground for obsolete technology.

Moldova strongly supports the goals and principles of the Oslo Declaration, as the harm caused by cluster munitions cannot be denied. The harm caused must be addressed taking into account military requirements and humanitarian aspects. Moldova believes that the framework of the CCW is the best and most effective method to regulate their use. The drafting of protocols to the CCW demonstrates the ability of States Parties to overcome narrow interests and reach compromises. Moldova hoped the same political will would be shown in Dublin.

Moldova was particularly concerned by the transfer of cluster munitions to non-state actors. The demands of humanity and military necessity should be balanced and should not be presented as an irreconcilable viewpoint.

Nigeria associated itself with the statement made by Zambia on behalf of the African Group. Nigeria has signed the Wellington Declaration and endorsed the Livingstone Declaration, sharing the view that cluster munitions cause unacceptable and avoidable harm. Cluster munitions do not constitute an irreplaceable military capability and the humanitarian consequences of their use far outweigh military utility. Nigeria believes that the use of “better” or more technologically advanced weapons leaves the door open to more harm, not less. Nigeria also raised the issue of the proliferation of small arms and light weapons on the African continent.

The President reminded delegates that the focus of the Conference was cluster munitions.

Lebanon has supported the Oslo Process since the beginning. Cluster munitions cause unacceptable harm to local populations, limiting their inherent basic human rights and preventing full enjoyment of economic and social rights. Lebanon is conscious of the deadly legacy of unexploded ordnance and has experience of its devastating effect after the conflict of the summer of 2006. Lebanon believes that the draft Convention as it stands voices a strong and comprehensive message and that an effective treaty can be achieved.

Niger supported the declaration made by Zambia. Niger fully supports the Livingstone Declaration and its commitment to draft a legally binding international instrument.

Jamaica commended the Oslo Process, as cluster munitions are too destructive to be acceptable. Jamaica noted the qualitative reference to cluster munitions in the draft text “cluster munitions *that cause* unacceptable harm”, and suggested the alternative “cluster munitions *as they cause* unacceptable harm”.

Sweden fully supports the ambition to achieve consensus and attract a larger number of States. The text must balance military and humanitarian interests, which are not mutually exclusive.

The President thanked delegations for their contributions.

The meeting rose at 1 p.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/SR/2

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF SECOND SESSION OF THE PLENARY

Held at Croke Park, Dublin on Monday, 19 May 2008

Chair: Vice President MACEDO

The meeting was called to order at 3.07 pm.

Bosnia and Herzegovina had participated in the anti-personnel mine ban and was one of the first signatories of the Mine Ban Treaty. It had painful experience of the excessive danger of explosive remnants of war and fully supported the creation of a new treaty.

Samoa supported whole-heartedly the drafting of a convention containing a comprehensive ban on the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians. Samoa supported the organization of work proposed by the President.

Belgium associated itself with the statement made by Slovenia, on behalf on the European Union. It assured the President of its full cooperation and in advance of the Conference had carried out a new round of diplomatic demarches in States indicating an intention to participate. The draft Convention is compatible with the Belgian law of 2006, the first in the world to prohibit cluster munitions.

Belgium hoped that other countries could learn from its experience of stockpile destruction, which involved concerted offers and bidding. On victim assistance, Belgium saw the draft Convention as a point of departure and would seek to further build and expand upon these provisions, taking the experience of victims into account.

Switzerland offered the full support of its delegation and stated that the Wellington Conference had demonstrated that the draft Convention was not yet ready as a basis for consensus. Switzerland had submitted proposals on victim assistance and definitions and was ready to work to find agreement. It was important that the Convention be widely implemented, both by States that use cluster munitions and those affected by them.

Serbia had been an active supporter of the Oslo Process since the beginning. It also recently ratified the Convention on the Rights of Persons with Disabilities and preparation for adherence to Protocol V of the CCW is underway. Serbia had been directly affected by cluster munitions and understood the necessity of a balance between the rights and obligations of user States and those affected. Serbia noted the lack of an effective framework of assistance and appealed to States in a position to do so to provide assistance.

Senegal fully supported the statement of Zambia and reaffirmed its unequivocal commitment to peace and security. Senegal underlined the importance of a strong Convention being adopted and noted that universality would be an important part of its effectiveness.

The **Former Yugoslav Republic of Macedonia** stated that it had never used, produced or transferred cluster munitions. Human security policy must have an additional tool and the new Convention should provide citizens with a legal and practical shelter from the disastrous effects of cluster munitions.

The **Cook Islands** called for a strong Convention without any exceptions. To allow exceptions would be to allow countries to make excuses for the continued use of cluster munitions.

Japan offered its full support to make the Conference a success and noted that the Convention would be most effective if supported by all States.

Finland associated itself fully with the statement delivered by Slovenia on behalf of the European Union. The goal was an instrument that is relevant and that major users and producers can agree too. States will still have to maintain capacities for legitimate self-defence and an overly strict ban might lead to states compensating with large amounts of unitary weapons. Regarding interoperability, it would be irresponsible to endanger international crisis management. Finland remains committed to the CCW process, and has as its goal a treaty that is truly relevant.

Botswana aligned itself with the statement by Zambia, which announced a shared commitment to the Oslo Process. Botswana fully supported the Ottawa Process and believes that the Oslo Process mirrors that successful international humanitarian response. Though not directly affected by cluster munitions, Botswana is concerned about their proliferation and transfer and called for the adoption of an international covenant binding on all.

Kenya noted that at the Wellington Conference it had expressed its willingness to conclude a legally binding instrument on cluster munitions. It was not an affected State but was situated in a neighborhood embroiled in conflict and stated that the prohibitions and restrictions applicable to land mines ought to be applied to munitions in the same category. Kenya associated itself with the statement of Zambia and the Livingstone Declaration. It called for a total and immediate prohibition of cluster bombs.

Timor-Leste stated that driven by humanitarian values, it had endorsed the Wellington Declaration so as to be able to participate in the Dublin Conference. The

Convention should draw a strong commitment from States Parties and Timor-Leste committed itself to cooperation and implementation of the eventual Convention.

Chad noted the persistence and determination of the Cluster Munition Coalition on the cluster munitions issue. Chad has experience of the devastating effects of unexploded ordnance; huge areas of the country have been despoiled by mines, hampering the struggle against poverty.

Vanuatu supported the statement of Fiji and other Pacific Island States. It retained its position on the Oslo Process and confirmed its position as a friend of affected States, as stated at the Wellington Conference.

Estonia fully supported the statement made by Slovenia on behalf of the European Union. The draft Convention text prepared at Wellington and the compendium of proposals were a solid basis for discussion. Estonia supported the inclusion of a specific provision on interoperability. The transition period should be as short as possible and as long as necessary.

Uganda was an active participant at the Livingstone Conference and associated itself with the statement of Zambia. Any solution to the issue should include a prohibition on the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians and a framework for assistance for victims, clearance, risk education and destruction of stockpiles. Uganda had been the victim of cluster munitions use by non-state actors, resulting in the denial of access to agricultural land and retardation of economic development. Uganda was ready to host another African meeting on cluster munitions in September.

Guinea supported the statement of Zambia. Like the Ottawa Process, the Oslo Process will be of great benefit to Africa, and Guinea would be unstinting in its efforts to contribute towards the adoption of the Convention.

Madagascar does not use or produce cluster munitions, nor has it been affected by them. Mindful of the importance of arms regulation and convinced of the need for a new instrument, Madagascar has ratified most of the other international conventions on arms.

Benin recalled the difficulties encountered in discussions at the CCW and the differences between those seeking an ambitious solution and those seeking a minimum text. A main point of divergence amongst delegations is the exact definition of cluster bombs. Though Benin understands the needs of legitimate self-defense it believes that arguments in favor of categorizing cluster munitions should not trump humanitarian concerns. In line with the Livingstone Declaration, all cluster munitions causing unacceptable harm should be banned without restrictions.

A second point of discord is the need for a transition period. As this is not a disarmament accord, **Benin** stated that the Conference should allow no transition period, as it would, in effect, authorise the use of weapons recognized as having harmful effects. Assistance to victims should remain at the heart of the process and the future Convention should stress the responsibility of producer States to

compensate countries that have suffered the effects of cluster munitions. The future Convention should also contain strict deadlines for the destruction of stockpiles.

Panama stated that the conclusion of a legally binding instrument on cluster munitions was a political priority for Panama. Panama agrees with the need to focus on the humanitarian aspect and greater support to victims. The eventual Convention should be effective and allow no exemptions or loopholes.

Thailand joined the process after its second round in Lima and has signed the Anti-Personnel Mine Convention. As an observer State, Thailand was assessing its capacities to fulfill obligations under a future Convention, as well as the effect of a future Convention on its ability to achieve its outstanding obligations under other conventions. Thailand noted that the cost of implementation was insupportable for some states, in particular the obligations to provide victim assistance for developing countries. Thailand is committed to helping victims and promoting international cooperation with other countries or international organizations.

Ethiopia endorsed the statement made by Zambia. Ethiopia has been a keen observer of the Oslo Process in 2007 and outlined a number of reasons for its interest in the issue. Ethiopia referred to its own tragic experience of destructive weapons particularly in the sub-region of the Horn of Africa and emphasised the importance of a global initiative requiring the participation and conviction of all concerned states. Ethiopia stressed the need for treaty-based guarantees protecting those states amenable to contraventions of obligations by others.

Ethiopia remained anxious to see improvements in the text and stressed that its role as an observer State should not cast any doubt on its support for the Oslo Process. Due to the turbulent and conflict-ridden nature of the area to which Ethiopia belongs and various other factors including an unequal commitment on the part of other actors to mines and munitions instruments, Ethiopia prefers to exercise caution with respect to the present draft Convention.

Ethiopia stated its firm position on substantive aspects of the Draft Convention including: the need to address sub-regions to ensure an evenly distributed implementation of the Convention; the necessity for provisions designed to protect those states threatened by the acts or omissions of others; the importance of the role of the UN Security Council in the implementation of the Convention, and the usefulness of drawing on the Convention on Certain Conventional Weapons to inform present negotiations particularly in relation to challenges and shortcomings encountered .

The **Cluster Munition Coalition** represented more than 280 NGO's registered whose common purpose was to achieve the best possible outcome. There was no reason why the treaty text could not get stronger over the course of the Conference.

On definitions, the CMC stated that all weapons that have indiscriminate, wide area effect leaving large amounts of unexploded ordnance should be covered. The burden of proof must be on governments to prove that weapons are accurate and have effective self-destruct mechanisms. Regarding a transition period, the reservation of the right to use weapons whose prohibition had been agreed undermines the object and purpose of the Convention. The provisions on interoperability must not delete or

undercut the prohibition on assistance and the CMC object to any use of cluster munitions by any armed force.

The CMC strongly supported the definition of cluster munitions victim and called for text to be added to Article 5 on priorities and timelines. Language should also be added to Article 7 requiring reporting by States and inclusion of victims in the planning of assistance. The deadlines for stockpile destruction were too long and the possibility of an extension was opposed. The CMC saw no justification in the three purposes cited for retention as no agencies use live ammunition for training purposes. They supported the notion of retroactive responsibility of users to assist with clearance.

The meeting rose at 5 p.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/SR/3

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF THIRD SESSION OF THE PLENARY

Held at Croke Park, Dublin on Wednesday, 28 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 7.55 p.m.

The President proposed that delegations agree to adopt the draft Convention set out in Presidency Paper CCM/PT/15 together with the technical and editorial modifications necessary to ensure consistency throughout the text.

It was so agreed (applause).

The President congratulated delegations on their achievement which, he said, would have a significant humanitarian impact. He informed the meeting that the Convention text with the necessary editorial modifications would now be prepared in the three languages of the Conference for formal adoption by the Conference at 10.00 a.m. on 30 May.

He informed the meeting that a draft final document containing the procedural report of the Conference will be circulated for the information of delegates shortly and asked delegations to report any factual corrections to the Secretariat.

The meeting rose at 8.00 p.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/SR/4

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**SUMMARY RECORD OF FOURTH SESSION OF THE PLENARY AND CLOSING
CEREMONY OF THE CONFERENCE**

Held at Croke Park, Dublin on Friday, 30 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10 a.m.

The President provided a brief outline of the manner in which the Plenary Session would proceed. Firstly, States had to formally adopt the text of the Convention on Cluster Munitions, as they had agreed on Wednesday evening.

Following adoption, delegations could make a statement on the Convention. The President reminded delegations that statements made on Wednesday afternoon and evening would be reflected in the Summary Records of the Conference.

He then proposed to turn to the Final Document of the Conference, which was made available in draft form on Wednesday evening. The Plenary would adopt the Procedural Report, a purely factual description of the Conference proceedings, contained in the Final Document along with its five annexes (Agenda, Rules of Procedure, list of official conference documents, the documents themselves, and the list of delegates).

The closing ceremony of the Conference, with the participation of the Minister for Foreign Affairs of Ireland and other distinguished guests, would follow at 12.00p.m.

ADOPTION OF THE CONVENTION ON CLUSTER MUNITIONS

The President proposed that the Conference adopt the text of the Convention, as set out in document number CCM/77.

The Convention was adopted by acclamation

STATEMENTS BY DELEGATIONS FOLLOWING THE ADOPTION OF THE
CONVENTION

Mexico expressed its satisfaction with the outcome of the Conference. The Convention was a milestone in the development and codification of international humanitarian law. Mexico hoped to be one of the first States to sign it.

The **Holy See** welcomed the Convention's provisions on the protection and care of victims, which marked a new chapter in international humanitarian law. It greatly appreciated the contribution of all delegates, including the UN, the International Committee of the Red Cross and civil society, and the efforts of the President, in achieving these compelling objectives. It called on the solidarity of the international community to assume responsibility for victim assistance and clearance of contaminated areas.

The **Holy See** wished to express its understanding that Article 5(2)(c) shall guarantee pluralism and involve a diverse range of actors, including government, non-governmental organisations and non-State actors, in victim assistance efforts, in line with paragraph 10 of the Preamble to the Convention. It hoped that the spirit of partnership between delegations and civil society which had characterised the Conference would continue in order to ensure the effective implementation of the Convention.

Norway stated its intention to sign the Convention in Oslo in December. While the Convention would not yet enter into force for some time, in practical terms its implementation began now. Reflecting on the Oslo Process, Norway remarked that it had taken a humanitarian approach to disarmament. It had greatly benefited from effective partnership between affected and unaffected States, and between States and civil society. The input of United Nations Development Program and the International Committee of the Red Cross had been particularly valuable. Norway stated that Article 21 on interoperability was essential to ensure that the Convention did not hinder future joint military operations with non-States Parties. No loopholes had been left in the Convention.

Canada thanked Ireland, and welcomed the substantive outcome of the Conference. It considered that the text of the Convention struck the right balance between competing interests. There had been differing reactions to Article 21, with the Cluster Munitions Coalition describing it as a "stain on the fabric of the Convention." Others described it as a loophole. Canada regarded it as an essential element to legally protect joint military operations, which actually strengthened the Convention. The metaphor of steel was suggested to describe the Convention; its inherent flexibility added to its strength. The Convention would achieve a major paradigm shift in how the world viewed cluster munitions. Both humanitarian and security considerations had been taken into account in negotiating the Convention, and the Canadian delegation was proud to take it back to its capital for consideration.

Nigeria expressed its deep appreciation to the President and to Ireland. The painstaking negotiations had resulted in a Convention which would ban and stigmatise cluster munitions. Nigeria intended to sign the Convention in Oslo in December. States had a collective responsibility to sign and ratify the Convention as soon as possible.

Slovenia delivered a statement on behalf of the European Union, commending the results of the Conference. The EU regarded the text as having responded to humanitarian concerns, and called upon States to strive for its universalisation. The EU Member States would also continue to participate in parallel efforts within the context of the Convention on Certain Conventional Weapons.

Germany expressed its full support for the Convention, and wished to inform delegates of a joint declaration of its Ministries of Defence and Foreign Affairs yesterday in support of the Convention. Germany would sign the Convention in Oslo and ratify it as quickly as possible thereafter. Germany would unilaterally renounce the use of all types of cluster munitions and destroy its stocks as quickly as possible.

Hungary welcomed the outcome of the Conference and thanked the President for his able stewardship of the negotiations. Hungary had adopted a unilateral moratorium of all cluster munitions in its possession in November 2007. It welcomed Article 21 of the Convention as an appropriate solution to safeguard peacekeeping and humanitarian operations.

Cambodia expressed its satisfaction with the negotiations, and called for the effective implementation of the Convention's provisions. International co-operation would be essential to achieving the ambitions of the text.

Chile welcomed the successful outcome of the Conference, and expressed its particular support for the Convention's provisions on destruction, clearance, risk education, victim assistance, transparency and its lack of a transition period or any provision for reservations. Chile would have preferred a reference to the qualitative criterion of unacceptable harm in the Convention's definitions, but expressed the hope that any shortcomings could be addressed in the Review Conferences. Chile would make great efforts to achieve the universalisation of the Convention.

Lebanon congratulated the President and expressed its support for the Convention, which had focused on humanitarian concerns. It delivered a message from people of South Lebanon, an area badly affected by cluster munitions, who welcomed the new Convention.

Congo thanked the President and Ireland, and associated itself with the remarks made by Zambia on behalf of the African group in the Committee of the Whole on Wednesday. States must now work effectively at national level to implement the Convention.

Argentina thanked the Core Group for leading the Oslo Process. It stated that it would remain watchful of Article 2(2)(c) of the Convention, to see if there is a need for its revision in the future. Argentina maintained the view that Article 21 should not appear in the Convention, on the basis that this Article generates uncertainty without contributing to the aims of the Convention. However, it was part of the necessary consensus to agree the text as a whole.

Australia welcomed the Convention, which would achieve a strong humanitarian outcome. States should now focus on ensuring the rapid entry into force and full implementation of the Convention. Australia welcomed the input of civil society to

negotiations of the Convention. It regarded the Convention as a balanced text which would ensure adherence by the greatest possible number of States, and would establish a new norm in international humanitarian law. Australia was confident that it would be in a position to sign the Convention before the end of the year.

Austria stated that the Convention marked a milestone in the development of international humanitarian law. The constructive and co-operative spirit of the negotiations should be preserved in its implementation. Austria had adopted national legislation in December 2007 prescribing a total ban on cluster munitions. It had actively engaged in the Oslo Process and intended to contribute beyond signature of the text in December. Mr. Markus Reiterer had made significant efforts as Friend of the President in pursuing negotiations on Article 5, the human face of the Convention. Austria welcomed the important contribution of cluster munitions victims to the Conference, and thanked the President for his leadership.

France stated that the Dublin Diplomatic Conference was one of the most successful diplomatic conferences it had participated in. The Convention was the product of meticulous negotiations, and represented a milestone in international humanitarian law. France intended to sign the text in Oslo in December, and was committed to destroying the quasi-totality of its stockpiles before that time.

Palau hoped that the new Convention would achieve universalisation. It acknowledged the particular contribution of Norway to the Oslo Process, and thanked the Cluster Munition Coalition for its inspirational partnership.

Venezuela welcomed the adoption of the Convention by consensus and thanked Ireland for hosting the negotiations. It saluted the work of the Cluster Munitions Coalition and the International Committee of the Red Cross. The text contained key provisions of international humanitarian law, which would address the suffering of innocent civilian populations. Venezuela was unhappy with the provision on interoperability, which it regarded as undermining the spirit and purpose of the Convention.

Uruguay welcomed the success achieved in adopting the text of the Convention. It welcomed the humanitarian aspects of the Convention, and hoped for the rapid accession of the widest possible number of States.

Peru had supported a legally binding instrument banning cluster munitions to fulfill an ethical imperative of preventing civilian suffering. The text adopted contained important provisions on victim assistance, international co-operation and destruction of cluster munitions, which would form part of international humanitarian law. Peru expressed its admiration for the efforts of the President and the Core Group in leading the Oslo Process to its conclusion.

Guatemala stated that it was very happy to see the Oslo Process lead to an internationally binding legal instrument. Guatemala had suffered similar damage from landmines and very much supported the provisions on victim assistance in the Convention.

Indonesia stated that the Convention was a milestone in international humanitarian law and disarmament. It attached great importance to the universalisation of the Convention, and welcomed the spirit of compromise which had emerged in the negotiations.

The **Netherlands** requested that remarks made by it at the sixteenth Session of the Committee of the Whole be included in the record at this point. The Netherlands was not entirely happy with the Convention but stated that the unhappiness had been equitably distributed. The Netherlands joined the consensus that the text be forwarded to the Plenary for adoption. It hoped that it would persuade countries present as observers to move and others to sign up to the Convention in due course. The Netherlands also wished to call on all States to ratify Protocol V of the Convention on Certain Conventional Weapons on Explosive Remnants of War as quickly as possible.

Honduras stated that cluster munitions had devastating effects on civilian populations, especially children. It welcomed the commitment in the Convention to preventing suffering of this kind in the future.

Botswana stated that the Convention would greatly alleviate civilian suffering, and should enjoy broad acceptance. It welcomed the invaluable contribution of civil society and the International Committee of the Red Cross to the negotiations, and thanked Norway for guiding the Oslo Process.

The **United Kingdom** stated that it had worked fully towards achieving the humanitarian objectives of the Oslo Process, and had already taken significant steps towards implementation of those norms. It thanked the Core Group, the President and welcomed the contribution of the UN, the International Committee of the Red Cross and civil society to the negotiations. It paid tribute to victims around the world for raising awareness and motivating States to act. The Convention represented a major contribution to re-defining the limits of war.

Burundi stated that the adopted Convention would govern the behaviour of all States present. Burundi intended to sign the Convention in Oslo and would do its utmost to implement it at national level.

Costa Rica welcomed the successful conclusion of the Conference. While it would have preferred a broader definition of cluster munitions, and more rigour in Article 21, the achievements in the text as a whole were so great that Costa Rica was willing to support it.

Timor Leste stated that while delegations had different perspectives in the negotiations, all had acted in a spirit of compromise to achieve a fair text. Timor Leste was willing to endorse this highly credible Convention and looked forward to signing it in Oslo.

Japan welcomed the contribution of civil society to the negotiations, and expressed its support for the Convention, which took humanitarian concerns seriously.

Moldova thanked all delegations for their constructive participation in the Conference, and expressed its support for the Convention.

Estonia expressed its support for the Convention and stated that the final text was the best available compromise to avoid unnecessary civilian suffering. It would carefully consider the text in Tallinn in the months ahead.

Sweden thanked Ireland for its open and positive conduct of the negotiations, and stated that it agreed with the need to achieve consensus on a Convention text which successfully balanced humanitarian and military concerns.

Finland considered the new convention as a remarkable milestone in developing international humanitarian law. It will constitute an important tool for addressing the challenges of victim assistance and clearance of cluster munition remnants in affected areas. Finland sees the text as a result of a compromise, a compromise in which not all of the delegation's concerns were entirely met. The convention text will now be carefully considered in the capital.

Slovakia stated that it was ready to fully contribute to strengthening international humanitarian law and preventing civilian suffering. The Convention contained important provisions which would address humanitarian concerns. Its national authorities would carefully study the text in advance of the signature ceremony in Oslo.

Spain stated that it wholeheartedly subscribed to the Convention, notwithstanding that it maintained its view on Article 2, as expressed in the Committee of the Whole last Wednesday. The Convention would have an important impact on talks on the Convention on Certain Conventional Weapons to be held in Geneva in July. It considered the reference to Protocol V in the Preamble of the Convention to be significant. Spain would remain firm in its position that the scope of the Convention should be as broad as possible to avoid the devastating effect of cluster munitions.

El Salvador welcomed the successful outcome of the Conference and expressed the view that the Convention should start taking effect immediately.

Samoa welcomed the adoption of the Convention which would contribute to disarmament, non-proliferation and international humanitarian law. It should be implemented in good faith in a spirit of broad co-operation.

Niger welcomed the adoption of the text as a key milestone in international humanitarian law. It intended to be among the first wave of States to join the Convention in December at Oslo, and encouraged other States to do the same.

Ecuador congratulated the President and called for the full implementation of the Convention to ensure that no future suffering would be caused by cluster munitions. It was vital that civil society should continue to be included in the implementation of the Convention.

Belize expressed its gratitude to the President and stated that Belize would endorse the Convention as a whole with immediate effect.

Iceland expressed its full support for the Convention, and stated that its implementation should be guided by the principle of good faith enshrined in Article 28 of the Vienna Convention on the Law of Treaties. Regard should also be had to the International Law Commission Draft Articles on State Responsibility. Article 21 of the Convention dealt with particular concerns regarding joint military operations with non-States Parties, without allowing for departure from the specific obligations of the Convention.

Belgium welcomed the Convention, particularly its provisions on victim assistance which represented an important step forward. The Belgian Minister for Foreign Affairs, Karel de Gucht, would initiate an international campaign to achieve the universalisation of this Convention.

Kenya stated that the Convention was a significant milestone in international humanitarian law, and welcomed that it did not allow for transition periods. It also welcomed the Convention's provisions on victim assistance and international co-operation. The Convention reflected the fact that cluster munitions causing unacceptable harm to civilians had no place in the twenty-first century.

Cameroon congratulated the President and welcomed the outcome of the negotiations. Cameroon was not a user of cluster munitions, nor did it possess areas in need of clearance, but stood in solidarity with affected States. It welcomed the Convention as achieving a fair balance between military and humanitarian concerns.

Zambia thanked the President, and stated that it would be happy to sign and ratify the Convention. It expressed its understanding that Article 21 would not create a loophole for States Parties to allow the indefinite stockpiling and transit of cluster munitions on their territories.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** stated that it had participated in the Conference in an effort to ensure that the treaty provided the best possible protection to civilians. It welcomed the fact that millions of cluster munitions were now consigned to destruction. The Convention's provisions on victim assistance would also set new standards. However, the CMC was disappointed with Article 21, and cautioned against it becoming a loophole in the Convention. It also emphasised that Article 2(2) (c) must be carefully monitored to prevent the future development of weapons causing unacceptable harm.

The **CMC** called on States to develop common understandings on the foreign stockpiles and on the minimum number of cluster munitions necessary to be retained for the purposes of training, development and counter-measures. It commended all delegates for the success of the Conference, and called for the swiftest possible entry into force of the Convention.

The **Geneva International Centre for Humanitarian Demining** warmly welcomed the Convention and stated that it looked forward to providing ongoing technical advice and assistance in the clearance and destruction of cluster munitions.

The **International Federation of Red Cross and Red Crescent Societies** welcomed the Convention as an important breakthrough for victims' rights and to prevent civilian suffering. It encouraged as many States as possible to sign and ratify the new Convention.

Sierra Leone stated that it was happy to have participated in the process and stood by the spirit and letter of the Convention.

ADOPTION OF THE FINAL DOCUMENT OF THE CONFERENCE

The President stated that the Final Document of the Conference CCM/78 consisted of three parts: a Procedural Report with five annexes (Agenda, Rules of Procedure, list of official conference documents, the documents themselves, and the list of delegates); the text of the Convention; and the Summary Records of the sessions of the Plenary and the Committee of the Whole. The Summary Records would be made available in draft form on the website of the Conference, and could be reviewed by delegates for any necessary corrections.

The President drew the attention of delegations to paragraph 19 of the Procedural Report. The Secretary-General of the United Nations, who had agreed to act as depositary of the Convention, would be invited to prepare the authentic Arabic, Chinese and Russian texts. Once this had been done, the Convention would be opened for signature in Oslo on 3 December next, in the six official languages of the UN.

Finally, paragraph 21 contained a decision that the President of the Conference would report to the next session of the UN General Assembly on the outcome of the Conference. As the Secretary-General of the United Nations would require an appropriate mandate to carry out the administrative functions assigned to him under the Convention, as distinct from his depositary functions, a General Assembly Resolution in the autumn would be necessary.

The President proposed that delegates adopt the text of the Procedural Report.

The procedural report was adopted.

CLOSING CEREMONY OF THE CONFERENCE

The President welcomed the Minister for Foreign Affairs of Ireland, Mr Michéal Martin; Deputy Minister for Defence of Norway, Mr Espen Barth Eide; Ms Sara Sekkenes of the United Nations Development Programme (to speak on behalf of the United Nations and deliver a message from the United Nations Secretary-General, Mr Ban Ki-moon); Mr Peter Herby, Head of the Arms Unit of the Legal Division of the International Committee of the Red Cross; and Ms. Grethe Ostern of the Cluster Munitions Coalition.

Mr Michéal Martin stated that the adoption of a far-reaching Convention text by consensus reflected the constructive spirit of the Conference. He wished to warmly pay tribute to the efforts of all delegations, and to express his pride in the central role

played by the President of the Conference, the Department of Foreign Affairs and the Department of Defence of Ireland.

The Convention agreed upon was strong and ambitious and would set new standards, stigmatising the use of cluster munitions. The Oslo Process had been based on an exemplary partnership of States, the United Nations, the International Committee of the Red Cross and civil society. In particular, the efforts of the Cluster Munition Coalition and of victims themselves who had campaigned to help civilians in future should be welcomed. The Minister also saluted the leadership of Norway.

Three immediate goals were now set by the Convention: first, to take national measures to ratify it. Secondly, States must seek to ensure the universalisation of the new Convention by encouraging accession by all UN members. Lastly, States must do all that is necessary to fully implement the provisions of the Convention.

Mr Espen Barth Eide welcomed the progress made since the first meeting in Oslo. While important concessions had to be made by all States in adopting the Convention, a strong, comprehensive text had been agreed. It was a victory for international humanitarian law and proved the potential of partnership to address important humanitarian questions. The Convention achieved a complete ban on all cluster munitions causing unacceptable harm, and set new standards for victim assistance and clearance of affected areas. It would enhance human security by preventing the future use of cluster munitions.

The Convention would also create a norm having effects beyond the legal text itself. It would have an impact on the perceived legitimacy of State's behaviour. States should strive towards universal adherence to the Convention. The Deputy Minister thanked Ireland, and in particular the President, for having hosted the final negotiations and invited all delegations to Oslo for the signing of the Convention on 3 December 2008.

Ms Sara Sekennes delivered a message on behalf of the UN Secretary-General Mr Ban Ki-moon, welcoming the adoption of the Convention text and the successful outcome of the Conference. A broad coalition of States and other actors had created a new international standard. The Secretary-General was honoured to accept depositary functions under the Convention, and encouraged States to sign and ratify it.

On behalf of the **United Nations Mine Action Team**, Ms Sekennes thanked the President for his outstanding leadership and expressed appreciation for the efforts of all States and observer delegations in the negotiations.

On behalf of the **International Committee of the Red Cross**, Mr Peter Herby expressed great appreciation to all present in reaching this historic point. States had risen to the challenge of determining where the necessities of war must yield to the requirements of humanity. Cluster munitions causing unacceptable harm were morally repugnant and were now illegal under international humanitarian law. Alongside the Landmine Convention and Protocol V on Explosive Remnants of War, the Convention was the last essential element in an international legal regime to address the effects of weapons that keep on killing. The Convention would also create a broader norm that States using cluster munitions could not ignore.

More time and resources would be required to implement this new norm. Mr Herby urged States to be vigilant in ensuring respect for the rules and principles of international humanitarian law.

Ms Grethe Ostern, speaking of behalf of the **Cluster Munition Coalition**, spoke of the pain and suffering that had been caused by cluster munitions in countries such as Lao, where these weapons continued to kill and maim civilians many years after they had been used. The new Convention would ensure that cluster munitions causing unacceptable harm would not be used in future, saving lives and preserving land from contamination. The Coalition wished to thank the President and Ireland, and all States that had shown unwavering commitment to achieving a comprehensive ban on cluster munitions.

The Coalition called for universal acceptance of the new Convention, and had prepared an action plan for its entry into force.

(The action plan was presented to the Norwegian Deputy Minister for Defence.)

The President thanked all present for their participation in the work of the Conference. He wished to express his appreciation for the invaluable work done by those who had acted as Friends of the President on various issues, and for the important contribution of the Vice-Presidents and the Secretariat of the Conference. He thanked all delegates for their co-operation and constructive approach to negotiations. The new Convention would help to make the world a better and safer place.

The President declared the Conference closed.

The meeting rose at 1 p.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/CW/SR/1

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF FIRST SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Monday, 19 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 3 p.m.

The President welcomed delegates to the first session of the Committee of the Whole. The Committee would engage in a detailed article-by-article discussion of the draft Convention and consider the proposals made by delegations at the Wellington Conference and since then. Where it was not possible to reach general agreement on an article in the Committee, informal consultations would take place, chaired by the President or a nominated colleague.

Article 1

The President noted that several proposals had been made to amend Article 1, which deals with the general obligations of States Parties and the scope of application of the Convention.

The **United Kingdom** noted that States must be careful when drawing on the language of the Ottawa Convention as cluster munitions are not landmines. Articles 1(b) and (c) needed further refinement, particularly as States would not sign up to an agreement which posed a risk to participation in UN peacekeeping operations.

Japan concurred with the United Kingdom's remarks, stating that the success of the Conference depended on successful resolution of the issue of interoperability. Informal meetings on this issue would be useful.

The **Philippines** informed the Committee that it had tabled additional amendments to Article 1 so as to include a reference to non-State actors.

Denmark fully associated itself with the comments of the United Kingdom and Japan. The issue of interoperability should be resolved within the text of the Convention itself and not outside of it.

Argentina promised its full co-operation in seeking to conclude a treaty. Interoperability required extensive discussion in the Committee of the Whole, and was linked to the question of defining cluster munitions in Article 2. Argentina accepted that transitional periods should be allowed for the destruction of stockpiled

cluster munitions, but the use of cluster munitions should not be allowed during this period.

Finland supported the comments of the United Kingdom and Japan, and emphasised that interoperability should be resolved in the text itself. Article 1 should be complemented by the definitions in Article 2.

Ireland drew attention to the proposal it had made at the Wellington Conference to bring dispensers attached to aircraft to release or disperse explosive bomblets within the scope of Article 1, as set out in CCM/15.

Canada stressed its view that the Convention should not prevent combined military operations with non-States Parties. It hoped to soon table additional text on Article 1 to address interoperability.

The **Czech Republic** associated itself with the remarks of the United Kingdom and Japan.

Australia shared the concerns expressed about interoperability, pointing out that non-States Parties will continue to produce and use cluster munitions in the short to medium term. The issue, which has repercussions for missions under Chapter VII of the UN Charter, must be resolved in the text and sustained informal discussions should commence in order to reach a solution.

Germany supported Australia's call for a focused discussion on interoperability.

Indonesia indicated that it was comfortable with the text of Article 1 as it currently stood. It sought clarification from States concerned about interoperability on the issues of military alliances with non-States Parties and the link with Chapter VII resolutions of the UN Security Council. Indonesia considered that the inclusion of transitional periods for States to comply with obligations under Article 1 contradicted the spirit of the Convention.

New Zealand emphasised its commitment to a strong treaty. Article 1 is fundamental to the parameters of the Convention, which is a humanitarian instrument. New Zealand's participation in peacekeeping missions must not be called into question, and clarification should be provided in the text. New Zealand welcomed informal consultations on this issue.

While **Peru** was happy with the text of Article 1, it expressed the view that a clear provision on interoperability would enrich the Convention by securing the agreement of States.

Costa Rica expressed support for the views of Peru and Argentina. It is happy with the text of Article 1 as it currently stands. Informal consultations would be useful to clarify interoperability.

Lithuania expressed the view that concrete provision should be made for interoperability in the text of the Convention.

Guatemala supported the text of Article 1 as it currently stands, but was willing to discuss interoperability informally. It considered that the inclusion of transitional periods in Article 1 would weaken the instrument.

Venezuela considered that transitional periods, while necessary to allow time for the destruction of stockpiles, should not allow for the use of cluster munitions. It agreed with Indonesia that the issue of interoperability was not yet fully understood, and should not weaken the Convention.

Malta, while happy with Article 1 as it stood, understood States' concerns about interoperability. This matter required further clarification, particularly its relationship with the obligation of non-encouragement in Article 1(c). Malta echoed Venezuela's comment regarding transition periods.

Portugal stated that most nations will participate in operations with non-States Parties. The solution on interoperability should not risk making the Convention irrelevant. The definition of prohibited cluster munitions should be addressed before discussing interoperability. Informal consultations would be necessary.

Albania associated itself with the remarks made by Germany. An informal working group should propose language on Article 1 to the Committee of the Whole.

Italy agreed that Convention language on interoperability would be required.

Zambia sought clarification on whether an interoperability provision would in effect allow States to use cluster munitions.

The floor was given to observer delegations.

The **Cluster Munition Coalition** stated that the interoperability provision should not undercut States' core obligation in Article 1(c). The existing text did not prohibit mere participation in joint military operations with non-States Parties that use cluster munitions. The Landmines Convention had regarded national declarations and implementation laws as sufficient to address this concern. The States Parties must make it clear that they object to any use of cluster munitions by non-States Parties and that the interoperability language is merely aimed at legal protection for soldiers.

The floor was returned to participating States.

Lao People's Democratic Republic agreed with the remarks of Indonesia. The provision on interoperability could respect obligations to military alliances without condoning the use of cluster munitions, using the Ottawa Convention as guidance.

The President stated that the discussion had revealed several different positions and it was essential to intensify negotiations on Article 1. Ambassador Christine Schraner (Switzerland) would act as a Friend of the President to convene informal consultations on Article 1. While the President hoped that a proposed solution could be agreed in consultation, he invited Ambassador Schraner to present the proposal that she thought might best balance the interests of States concerned if a consensus proposal did not emerge.

Ambassador Schraner stated that she would seek to establish common ground on the key challenge of interoperability, which could determine the effectiveness and relevance of the Convention. The provision must address the genuine concerns of States without creating a loophole in the Convention. She invited participants to make concrete proposals on the matter.

Article 2

The President opened discussions on Article 2 of the draft Convention. He reminded participants that the Oslo Declaration had committed States to adopting an agreement prohibiting cluster munitions which cause unacceptable harm. He proposed to examine all elements of Article 2, save for the definition of “cluster munitions victim” which would be addressed in considering Article 5 on victim assistance.

Botswana considered that the proposed definition of “transfer” in Article 2 was not sufficiently clear and should include a reference to transfer for the purposes of destruction of cluster munitions to best capture the object of the agreement.

Indonesia objected to the reference in draft Article 2 to “mines” as defined in the Protocol on Prohibitions or Restrictions on the Uses of Mines, Booby-Traps and Other Devices, on the basis that it is not a State Party to that instrument. Indonesia proposed replacing the text with language drawn from the Ottawa Convention, as set out in CCM/54. It also proposed a new definition of cluster munitions affected areas, as contained in CCM/27.

The President remarked that Article 1(2) is intended to indicate that the Convention does not apply to “mines” as defined in other instruments.

Canada opposed any definition of cluster munitions that would be too far-reaching, stating that such a definition reflects an indefensible presumption that no existing or future cluster munitions can be sufficiently accurate to meet the standards of international humanitarian law. The Oslo Declaration refers to cluster munitions causing “unacceptable harm” and there may be cluster munitions that fall within acceptable parameters. If a suitable definition is achieved, Canada would then support a total ban on prohibited cluster munitions as so defined.

Denmark drew delegates’ attention to its proposals in CCM/17 and expressed the view that any Friend of the President dealing with the issue should consider both the definition of cluster munitions and the transitional periods for the primary obligation. These remarks were supported by Japan and Sweden.

Burkina Faso had no particular difficulties with the proposed wording of Article 2, but considered that the issue of defining “cluster munition” should be addressed before moving to the issue of “cluster munition victim.”

The Netherlands supported Canada’s proposal that the reference in the Oslo Declaration to “unacceptable harm” should be reflected in the definition of cluster munition adopted in Article 2.

Australia referred to some key features of cluster munitions that cause unacceptable harm, namely wide area of dispersal, high number of sub-munitions, high risk to civilians. Cluster munitions that do not reach this threshold should not be banned.

Norway supported the view that the starting point of the definition should be “unacceptable harm”. Several elements must be added to Article 2(c) to reflect this.

The **United Kingdom** associated itself with Australia, Denmark, Canada and Japan, and suggested that informal consultations be held on the issue.

Germany agreed with these countries and referred to its proposal, contained in CCM/19, setting out the crucial elements of cluster munitions which fall within acceptable parameters, for example the limited number of explosive sub-munitions, point target systems, pre-defined area accuracy, self-destruction and deactivation.

France supported the view that the prohibition should only extend to cluster munitions which cause unacceptable harm.

Costa Rica agreed with the present definition in Article 2 but respected the position of other States. However, it was concerned about the prospect of making some cluster munitions legally exempt on the basis that States might not have an incentive to join if their arsenal fell outside the technological parameters of Article 2.

Indonesia stated that the definition of cluster munition should be as wide as possible, and cautioned against relying on technological exemptions of cluster munitions that are not yet in operation and whose effects on the field cannot be properly assessed. Venezuela, Jamaica, Guatemala and Mexico supported the concern that technological advances may not overcome the humanitarian problems caused by the use of cluster munitions in the field.

Peru stated that the definition of cluster munitions should not be ambiguous as this may leave room for States not to fulfil their obligations under the Convention.

Malta stated that the notion of what is a cluster munition is not self-evident. Article 2(c) must be fulfilled by a combination of precise and objective criteria.

Austria supported the view that the language of Article 2(c) must be clear and precise.

The **United Kingdom** expressed the view that the discussions had revealed that States could be broadly divided into three camps on this issue: (i) those who considered that all conceivable cluster munitions should be banned; (ii) those who favoured excluding the cluster munitions which they use and (iii) those who advocate adopting criteria to reflect what causes a cluster munition to result in unacceptable harm. This last position is closest to the terms of the Oslo Declaration. A structured discussion on CCM/17 is required.

Finland commented that it would prefer to permit sub-munitions with effective fail-safe mechanisms.

Lao People's Democratic Republic rejected the notion that some cluster munitions cause “acceptable” harm.

Italy welcomed CCM/17 as a good starting point to achieve a comprehensive definition in Article 2(c).

Lebanon pointed out all cluster munitions used in the field to date had been unreliable and indiscriminate. The definition should cover all types causing unacceptable harm. **Nigeria** concurred.

South Africa expressed its willingness to engage with the CCM/17 proposals, including a debate on the meaning of unacceptable harm. **Bulgaria** agreed.

Belgium recommended further reflection on the pursuit of humanitarian objectives as a point of departure in defining cluster munitions. A cumulative approach to technical elements would be advisable.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** submitted that the Convention should ban all cluster munitions as a category in order to increase its norm-building capacity. However, it recognised that there is dwindling support for a blanket ban. It expressed concerns about the unclear language of the exemptions being proposed, for example the proposed reference to “sensor-fusing”. The effects and capacities of weapons, not their technical characteristics, are significant.

The International Federation of Red Cross and Red Crescent Societies commented that it does not promote exclusions based on the technical characteristics of weapons. However, it understood the concerns raised. The treaty should prohibit inaccurate and unreliable cluster munitions, not those which are no more harmful than other munitions in use by States. Discussions should focus on the performance and capacity of weapons and not their technical specifications. For example, the language could refer to “point target discrimination” as a performance criterion, rather than to sensor-fusing which is a means of seeking to achieve this.

The President thanked delegations for their comments on Article 2, and stated that he considered informal consultations to be necessary. Ambassador Don MacKay (New Zealand) would act as a Friend of the President in convening informal discussions on Article 2. This work should proceed against the benchmark of the Oslo Declaration's commitment to prohibit cluster munitions causing unacceptable harm. If a text was not agreed informally, Ambassador MacKay would submit the proposal that he considered best.

Ambassador MacKay proposed to focus initially on Article 2(c). He would make available a brief discussion paper setting out elements for discussion in advance of the informal consultations.

Article 3

The President opened discussions on Article 3, concerning storage and stockpiling, noting that this provision is essential to prevent the use and proliferation of cluster munitions.

Canada stated that it supported the underlying concept of Article 3, but had reservations about the existing draft text. States parties should not be required to construct separate facilities to store prohibited cluster munitions, but to separate them from other weapons. It supported text proposed by the United Kingdom and submitted that the time period in Article 3 should be as short as possible in order to encourage compliance with the Convention. Text should be added to require States parties requesting an extension to this deadline to seek the minimum time necessary. Language should also be added to paragraph 5 allowing the request to be granted for a lesser period of time than that sought. New sub-paragraphs could also be added to paragraph 4 to refer to the quantity and type of cluster munitions held.

The **United Kingdom** suggested that the language of Article 3 might be improved in a practical fashion. Keeping stockpiles of weapons separate merely increases the costs of compliance. It suggested that a ten year period might be more appropriate in paragraph 2, while maintaining the possibility of requesting extension periods.

Germany stated that it intended to submit proposals on a revised text to address environmentally friendly destruction of cluster munitions.

France stated that the text should refer to the possibility of States keeping a limited stock of prohibited cluster munitions for the purpose of training in detection and clearance.

Indonesia agreed with the merit of the French proposal, having regard to States' participation in UN peacekeeping missions.

Slovakia agreed with the proposal regarding retention. It emphasised that resources for the destruction of stockpiles must be used efficiently. It should be clear to States Parties that separate installations were not required if prohibited weapons were clearly designated as such.

South Africa expressed its satisfaction with the existing six year deadline in Article 3, bearing in mind that the proposed text already allows States the possibility to request extensions.

Italy expressed support for clear provisions on retention, accompanied by transparency provisions.

Portugal considered that States should be required to justify any request for extensions of the deadline beyond ten years. States should also be required to report on any retention of cluster munitions for training purposes. **Fiji** and **Senegal** agreed that the retention of cluster munitions for training purposes should be permitted, with appropriate guarantees for transparency.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** spoke of the experience of the Mine Ban Treaty stockpile deadline, where there had been technical problems with compliance. It considered that a ten year deadline might be excessive, encouraging States to delay compliance. Regarding retention of prohibited cluster munitions for training, live sub-munitions are not necessary for this purpose. Any provision for retention should be accompanied by appropriate caveats, e.g. transparency measures.

The floor was returned to participating States.

The **United Kingdom** disputed the point made by the CLUSTER MUNITION COALITION regarding the use of live munitions for training purposes, stating its preference to have troops trained using live ammunition.

On stockpiles, **Bulgaria** commented that the main concern is to ensure that prohibited weapons are stored carefully and securely out of use, not necessarily in separate facilities. Realistic deadlines should be adopted for compliance.

The President thanked all present for their participation. Ambassador Stefan Kongstad (Norway) would act as a Friend of the President to conduct informal consultations on the text of Article 3.

Ambassador Kongstad referred to several proposals having been made on the text of Article 3, dealing with stockpile obligations, and retention of weapons for training. These proposals would have implications for the text of Article 7 dealing with transparency.

The meeting rose at 6 p.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/2

18 June 2008
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DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF SECOND SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Tuesday, 20 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10 a.m.

The President invited the vice-Foreign Minister of Venezuela to make a general statement.

Venezuela affirmed its support for the Oslo Process since its inception. International peace and security would be best guaranteed by a total ban on cluster munitions. The Ottawa Convention could provide a useful benchmark in drafting the new Convention. Venezuela was not in favour of the view that the effects of inhumane weapons could be mitigated by technological improvements. Results in laboratory tests may not coincide with matters on the ground. Venezuela stressed the importance of the Convention requiring States to provide full assistance to cluster munitions victims. There should be no loophole allowing user States to transmit this responsibility to States affected by cluster munitions.

Article 4

The President opened discussions on Article 4, addressing the clearance and destruction of cluster munitions remnants. This would be essential to the clearing of contaminated territories and to allow the destruction of cluster munitions. While the draft text was well-developed, some proposals for amendments had been made.

Mexico stated that Article 4 was an important lynchpin of the draft Convention, requiring the destruction and clearance of unexploded remnants.

Canada stated that differences on the ground must be taken into account. The five year time limit in Articles 4(1) (a) and (b) would be difficult for some States to comply with. Situations would vary depending on the amenability of the terrain concerned and the commitment of States involved. It supported Ireland's proposal to include the words "no later than 5 years after the end of active hostilities" in Article 4(1) (b), as set out in CCM/31. The meaning of "cluster munitions contaminated area" should be clear for the purposes of this obligation. It expressed its support for Indonesia's proposal for the definition of a "cluster munitions area" in Article 2, as set out in CCM/27. Article 4(2) (c) should be revised to state "make every effort to ensure that cluster munitions remnants ... are perimeter marked".

Canada expressed its support for Italy's proposal for the deletion of Article 4(4), as set out in CCM/34. It would prefer a collective responsibility model of the type in the Ottawa Convention. Regarding paragraph 5, States should be required to request the minimum period of time necessary in seeking any extension to the deadline under Article 4(1). Provision should also be made for a lesser period of time to be granted than the extension requested.

Lao People's Democratic Republic indicated that it found Article 4 acceptable as formulated but had concern about the five year deadline for clearance. This would not be possible to achieve in Lao, having regard to the scale of the affected areas. A ten year period, allowing for the possibility of requesting an extension, might be preferable. Wording should be incorporated into paragraph 7 to refer to need to give special consideration to requests from States Parties most affected by cluster munitions.

Serbia stated that the five year time period was not a realistic timeframe for Serbia. While international co-operation had been established for the clearance of cluster munitions remnants in Serbia, there were ongoing problems. Ten years would be a more reasonable timeframe.

France stated that Article 4 needed to be adjusted in certain respects, to take into account Protocol V to the Convention on Certain Conventional Weapons, regarding explosive remnants of war. Incompatible regimes between international instruments should not be adopted. A distinction should also be drawn between previously existing explosive remnants and those created after the entry into force of the Convention. France and Germany had tabled a proposal addressing amendments to the text, as set out in CCM/32.

Indonesia stated that it was happy with the existing text of Article 5. Indonesia is not a State Party to the Convention on Certain Conventional Weapons or its Protocols and considers that they should not appear in the text of the draft Convention. However, Article 4 could incorporate equivalent standards to those set out in Protocol V, without explicitly mentioning it.

Japan expressed its support for Canada, France and Italy's views on retroactivity and paragraph 4.

The **United Kingdom** stated that it was critically important to set out Article 4 correctly. It referred to its suggested amendments in CCM/33 regarding deadlines, the obligations of users, and retroactivity. Informal consultations on Article 4 would be useful.

Germany stated that it is necessary to have consistency with other international instruments such as Protocol V to the Convention on Certain Conventional Weapons. It has suggested a new paragraph, as set out in CCM/32.

Article 4(4) should not create new precedents inconsistent with practice. New language for this paragraph had been proposed by Germany and France, as set out in

CCM/47. Germany suggested that it might be useful for the President to compile a revised text of Article 4 based on the suggestions made.

Finland stated its view that Protocol V to the Convention on Certain Conventional Weapons is relevant. The risk that States might be deterred from joining the Convention should be borne in mind when considering any retroactive obligations.

Chile shared the view that there should be consistency between the draft Convention and Protocol V. Protocol V could provide a model for Article 4, with some exceptions. Technical and financial assistance is an important element in the clearance of remnants which should be incorporated into Article 4.

Norway stated that effective clearance of remnants within clearly set deadlines is an important element of the new Convention. However, a five year deadline would probably be too short, as it risked presenting an obstacle to States joining the Convention.

Lebanon pointed out that the magnitude of injuries to civilians from cluster munitions escalates in the aftermath of a conflict. It is important to ensure that the Convention places responsibility upon user States for their acts.

Australia supported the concerns of the United Kingdom, France and Germany regarding the retroactivity of Article 4. The different treaty regimes should be consistent; in particular there should be consistency between the draft Convention and the provisions of Protocol V and the Ottawa Convention. It emphasised that the concerns of affected States, such as Lao People's Democratic Republic and Serbia, regarding the inadequacy of time periods in draft Article 4 for the clearing of cluster munitions remnants should be taken seriously. These States should not realistically be expected to have to seek extensions to the deadlines imposed. Obstacles should not be created to prevent affected States joining the Convention.

Venezuela stated that Article 4(4) was fundamental to addressing the consequences of cluster munitions in the aftermath of a conflict. It expressed its view that the existing Article 4 should be maintained as drafted.

The **Philippines** expressed its support for Lao People's Democratic Republic's remarks. The Philippines had proposed draft language for Article 5 on the subject of the retroactive obligations of user States, as set out in CCM/58.

South Africa expressed its support for the views of affected States on the matter of deadlines. The experience of the Mine Ban Treaty could be used as a formula to ensure that developing States with fewer resources receive assistance in the clearance of remnants.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** expressed its support for Ireland's proposal on Article 4, as contained in CCM/31. It had several minor suggestions to improve the clarity of Article 4, which it would outline informally. Under Article 4(2) (a), the word "contamination" should replace the word "threat" to ensure that there is an

obligation to clear all contaminated areas. An obligation of clearance without destruction should not be adopted as this would undermine the object of the Convention.

The **Cluster Munition Coalition** expressed the view that the deadline in Article 4(1) should not be changed from five years. The special obligation of user States to provide assistance contained in Article 4(4) should be preserved. The Coalition had prepared a position paper on this subject.

The International Committee of the Red Cross pointed out that Protocol V to the Convention on Certain Conventional Weapons refers to the explosive remnants of munitions that may still be used by States. Here, Article 4 would refer to remnants of cluster munitions that would be prohibited for use. The wording of the draft Convention should reflect this distinction.

The floor was returned to participating States.

Serbia thanked Australia for its comments. The primary interest of all affected States is to make all territory safe from cluster munitions, but a realistic approach to achieving that objective must be adopted.

The President stated that there were a relatively small number of outstanding issues with regard to Article 4. Informal consultations would be helpful. He appointed Lieutenant Colonel Jim Burke of the Irish Defence Forces as a Friend of the President on Article 4. Colonel Burke would seek to agree a text in informal consultations, but if this was not possible, he would return to the Committee with the text which he considered to best reflect the balance of interests on the issue.

Lieutenant Colonel Burke stated that there was consensus on many elements of Article 4 but some important issues remained to be resolved. He would begin by conducting bilateral consultations with interested States, to be followed by an open meeting.

Congo suggested that there were some problems with a lack of availability of conference documents in French. This was causing practical problems for the participation of Francophone countries.

The President responded that documents CCM/1-50 were available in French. When new proposals for amendments were presented in English, they were immediately translated into the other working languages of the Conference and made available to delegates.

Article 5

The President opened discussions on Article 5 addressing victim assistance. This Article was related to the definition of “cluster munition victims” in Article 2, which was currently under informal discussion. There was also related draft preambular language on victims.

Canada supported Article 5 as a separate provision on victim assistance. It welcomed the Convention’s acknowledgement of indirect victims of cluster munitions, such as

families and communities affected. It proposed that language referring to victims that “have been materially and demonstrably affected” would be useful to define the scope of the obligation.

Canada supported the suggestion of the International Committee of the Red Cross that a non-discrimination provision be incorporated to prevent disparate treatment of war victims. It also supported the Cluster Munition Coalition’s suggestion that a short third paragraph be included in Article 5 requiring States to have consultations with victims in determining the assistance to be provided. A new paragraph 4 could also be included requiring the matter of ongoing support to cluster munition victims to be mainstreamed into policy-making by States.

The **Philippines** suggested that persons killed by cluster munitions should be included within the definition of cluster munition victims. This would entail an obligation to provide assistance to their families. The presence of non-nationals in a cluster munitions affected area should also be borne in mind. The Philippines referred to its proposal in CCM/58 to include a reference to international humanitarian law in Article 5(1). It had also suggested a new paragraph addressing the responsibility of user States for the past use of cluster munitions. It was flexible on the final wording of this new proposed paragraph but considered a provision of this kind to be essential to the new Convention.

Argentina referred to the wide-ranging definition of victims proposed in Article 2. It considered the text of Article 5 should include further details, and it would later present proposed wording. Here, it would present the ideas underlying those proposed changes. Article 5 should contain references to States’ duty of co-operation, national implementation and principles of human rights law, including non-discrimination and the full participation of victims in society. Transparency measures under Article 7 should ensure full disclosure of measures adopted by States to assist victims.

Serbia considered that victim assistance is a priority in the new Convention. Affected States would require solidarity and co-operation in meeting their future obligations under Article 5. All of the practical steps of victim assistance could not be foreseen in the Convention, but could be addressed in additional instruments adopted to the Convention.

Switzerland expressed its support for including the core principle of non-discrimination in the Convention to avoid the categorisation of victims. Draft Article 5 was a good starting-point but could be improved upon. A reference to medical and social services would be central to the provision of effective rehabilitation to victims.

Australia stated that many affected States have limited resources for victim assistance. It joined Canada in supporting the suggestion of the International Committee of the Red Cross to amend Article 5 to include a non-discrimination provision. This would ensure consistency with the UN Convention on the Rights of Persons with Disabilities.

Chile welcomed Article 5’s specific reference to the matter of victim assistance, which would meet one of the key principles of the Oslo Declaration. The draft Convention, once agreed, would mark a significant step forward for the whole corpus

of international humanitarian law and human rights law. It welcomed the idea of supporting the families of those affected by cluster munitions, by providing social and economic assistance. It agreed that the text of Article 5 should be fine-tuned and shared the views of Argentina and the Cluster Munition Coalition on possible improvements to Article 5. Article 7 should complement this by specific provisions on transparency of States' measures to assist victims.

Costa Rica stated that Article 5 was good and appropriate. The definition of cluster munitions victim in Article 2 must be maintained as is. Costa Rica agreed with Argentina and Chile that a wide-ranging definition must be maintained. The proposal of Ireland for the Preamble, contained in CCM/4, was appropriate, as was the proposal by Lesotho, as set out in CCM/7.

Guatemala shared the views of Argentina and the Cluster Munition Coalition. The Convention should include a framework for assistance and guarantees of appropriate medical assistance and more specific language for long term medical care, rehabilitation and social inclusion should be added. Guatemala fully supported the text of Article 2 contained in the draft Convention.

Indonesia noted that as a troop-contributing country to UN peacekeeping missions, whose troops had been killed and injured by unexploded ordnance, it understood the importance of victim assistance. There should be no discrimination with regard to victims. The definition in Article 2 should include all persons, civilians or combatants who have suffered.

The **United Kingdom** supported the Oslo Declaration on the need to offer assistance to victims and, in CCM/23 had made a proposal on the definition of a victim contained in Article 2. On Article 5, the United Kingdom supported non-discrimination between victims and stated that account should be taken of national laws and practices.

The President clarified that those parts of the Preamble referring to victim assistance would be dealt with now and the rest of the Preamble would be discussed at a later time.

Venezuela stated that the provisions of Article 5 should be strengthened and should include a clear provision on responsibility of user States for use of munitions before the entry into force of the Convention. It would be contradictory to seek a prohibition and include victim assistance and not make provision for what had happened in the past.

Honduras stated that the spirit of the Convention should be total prohibition, like the Ottawa Convention. It was appropriate that all those who had been harmed should receive assistance. Provisions on victim assistance should be clear and transparent and contain a retroactive element. Sanctions should be linked with human rights issues.

Mexico stated that Article 5 was the lynchpin of the Convention and shared in the views of Argentina, Guatemala, Costa Rica and Honduras.

New Zealand expressed support for elements of the International Committee of the Red Cross proposal on non-discrimination and equal access for all victims to assistance irrespective of the cause of their injury. New Zealand also supported a broad definition of cluster munitions victim including families and communities.

Norway considered that the text must reflect the development of new standards since the conclusion of the Mine Ban Treaty and provide for effective and gender sensitive victim assistance. The Article should reflect the highest human rights standards, be non-discriminatory and not create new categories of victims. The Preamble should demonstrate a strong commitment to victim assistance. The definition in Article 2 should be a fact based and accurate description and Norway considered the text as it stood as helpful. Not all States Parties would be in a position to fulfill these obligations alone; they must be seen in the light of Article 6 on international cooperation.

Uganda stated that victim assistance was cardinal and supported a strengthened Article 5. The Article should clearly reflect IHL provisions and the definition should be interpreted broadly to include families and communities.

Sierra Leone reiterated its position on the primacy of victim assistance and endorsed the statements of Serbia, Switzerland and Australia. Victim assistance should reflect international best practice and should be approached from an inclusive point of view.

Fiji supported what Article 5 tries to achieve but sought clarification on the meaning of States Parties in the context of the Article. Fiji asked who would be considered the responsible State Party if Fijian soldiers participating in UN peacekeeping mission were injured by cluster munitions?

The President responded that the obligation would be on States Parties.

Uruguay agreed with the need for a broad definition of cluster munition victims to include not just the direct victim but also families and communities. Like Argentina, Chile and other Latin American countries, it believed the Article could be strengthened, adding further obligations on States Parties to provide reports on assistance provided to victims.

Lao People's Democratic Republic stated that countries affected by cluster munitions need assistance from other countries that could provide it and from the international community. Lao People's Democratic Republic supported the proposal of the Philippines, that countries that have used cluster munitions should provide assistance. The most important element was to create an obligation on user states. There should be no discrimination made between victims of different kinds of unexploded ordnance.

The President reminded delegations that the issue of international cooperation and assistance would be dealt with under Article 6.

Germany echoed the sentiments of previous speakers on the vital role of victim assistance. Germany agreed with Switzerland, the United Kingdom and others that the definition should be non-discriminatory.

Panama joined in the statements of other Latin American countries and the Cluster Munition Coalition on the importance of Article 5.

Sudan joined with previous speakers on the need for a broad definition including victims' families. It supported the inclusion of reporting and implementing provisions on victim assistance.

The **Cook Islands** supported the current text of Article 4, which was clear and the most appropriate.

Peru agreed with the clear emphasis on victims in Articles 2, 5 and 6 and the Preamble.

The **Cluster Munition Coalition** stated that lessons learned since the implementation of the Mine Ban Treaty should be incorporated into the text. Tangible and verifiable obligations should be spelt out. The obligation to report should be clearer and include a time frame and national plans with measurable indicators of implementation. The Cluster Munition Coalition supported the proposal of Argentina that survivors must be included in the decision making process of victim assistance.

The **International Committee of the Red Cross** noted that several Governments had referred to its proposal on non-discrimination between victims. The ICRC would support the proposal of Australia to broaden the language used to include any victims, whether arising in the context of armed conflict or not. The ICRC agreed with the Cluster Munition Coalition on the need to strengthen monitoring and implementation of victim assistance provisions, as was also the case for the clearance and stockpile destruction elements.

The President stated that further work on Article 5 was clearly necessary and nominated Mr. Markus Reiterer of Austria as a Friend to undertake consultations. The consultations should search for text for Article 5, text on the definition of cluster munitions victim in Article 2 and relevant draft preambular language. The process should result in a text acceptable to all. Where this was not possible, the Friend would present a text that in his opinion best reflects the balance of interests present.

Article 6

The President then opened the discussion on Article 6 announcing his intention to return to certain provisions of this Article as the consultation undertaken by Friends on Articles 3, 4 and 5 developed.

As a general comment, **Botswana** stated that States Parties have the right to seek and receive assistance. The fact that there is no obligation on States Parties to assist others in the form of a fund to meet the obligation to destroy cluster munitions may prove an obstacle to those in the developing world that may not have enough funds to fulfill their obligations. The current draft refers to the provision of assistance by States Parties "in a position to do so", which lacks obligatory force. Part of the Mine Ban Treaty failure has been a lack of funding. Therefore, the provisions of Article 6 should be strengthened.

The **Philippines** had submitted two proposals. The first was to include migrants in the list of persons concerned in paragraph 7 and to include a reference to the International Organization for Migration in the enumeration of assistance providing organisations. The second proposal was for a new paragraph providing for an explicit reference to the Convention on Certain Conventional Weapons, stating that the interface with the CCW should be explored.

Canada stated that although the emphasis was on the obligations of States Parties in a position to provide assistance, affected countries could also encourage the provision of assistance. Canada proposed two amendments to paragraph 3, which requires States not to impose undue restrictions on assistance. It suggested the insertion of “and other such” between clearance and equipment, and the insertion of “and receipt” after “provision” to acknowledge the responsibility of affected States to facilitate assistance. The new paragraph 3 would thus read, “All States Parties shall not impose undue restrictions on the provision *and receipt* of clearance *and other such* equipment...”

Canada expressed support for the proposal of Denmark, France, Germany and Sweden, as set out in CCM/37, for paragraph 9 *bis*.

Canada suggested the addition of a new paragraph between paragraphs 9 and 10 requiring that action to address cluster munitions take place in the appropriate context and that affected States Parties will include and give due consideration to cluster munitions action in their national development plans.

Recalling the recent situation in a particular country in Asia, **Germany** underlined the importance of a solid legal basis when trying to bring in assistance to support victims. Germany along with Denmark, France and Sweden proposed a new paragraph, set out in CCM/37, which would be complementary to paragraph 11 of Article 6.

Indonesia supported Article 6 as drafted. On paragraph 2, Indonesia welcomed the opportunity to receive technical assistance, training and capacity building in the area of clearance prior to the deployment of peacekeepers. Paragraphs 4 and 5 should recognize the special responsibility of user States that have deployed cluster munitions, not just regarding the provision of assistance, but also the provision of information, including the numbers and types of munitions used and maps indicating where they were used. On paragraph 9, Indonesia requested information on the trust fund, for example, where it would be located and who would manage it.

Serbia noted the amendments to Article 6 proposed at the Wellington Conference which aimed to provide full assistance to affected countries. It was important that lessons learned from existing models of assistance should be incorporated into the text.

The Netherlands expressed support for the proposal contained in CCM/37.

Argentina stated that the present draft of Article 6 was on the whole, good. Argentina did not agree with those proposals tabled that called for the removal of paragraphs. On paragraph 9 *bis*, and the proposal contained in CCM/37, the text should be aligned with paragraph 6(1).

South Africa agreed with Botswana and its aims of strengthening Article 6. Certain paragraphs had been deleted in some proposals, including that contained in CCM/38. South Africa would prefer to have the language retained. The proposal contained in CCM/37 needed further refinement. South Africa asked whether the reference to favorable entry and visa regimes would require a change in domestic laws.

Peru recalled that its experience in providing humanitarian assistance under the Ottawa Convention had shown that efforts made by some States are not enough, and that the support of the international community is required. Peru was prepared to discuss the proposal of Canada on having national plans to ensure compliance. There was a need to ensure that resources were made available by international organisations.

As a donor country, **Australia** was comfortable with the text as drafted. Affected States bear primary responsibility for providing assistance, but are not alone in this regard, and States in a position to do so should also have a responsibility. The provision of assistance must take into account integrated mine assistance programmes, including all forms of explosive remnants of war.

The **Democratic Republic of the Congo** proposed an amendment to paragraph 7, adding that, “in particular those that have used cluster munitions, shall provide assistance to victims”.

Ghana supported the proposal of Denmark, France, Germany and Sweden, as contained in CCM/37. It would also give serious consideration to the proposal of Canada.

Zambia had experienced difficulty in accessing assistance under the Mine Ban Treaty. Zambia agreed with Botswana and stated that the provision of assistance should apply to all key areas, stockpile destruction, clearance, and victim assistance and risk education.

Uganda stated that the assistance channeled through international organisations and bilateral agreements should be targeted to improve the existing capacities of governments.

Chile endorsed the words of other countries on victim assistance. It was important to consider the proposal made by Denmark, France, Germany and Sweden. The proposal of Canada should also be considered.

Mozambique had experience of the implementation of the Ottawa Convention assistance provisions and supported the view of Botswana that Article 6 be strengthened, not weakened.

Lesotho agreed with Zambia that user States should be obliged to assist victims.

Nicaragua stated that it was essential to have the help of the international community and shared the statement made by Peru.

Chad supported the proposals made by Zambia and the Democratic Republic of the Congo on the obligations of user countries.

Guinea noted that the problem lies in the procedures for the provision and receipt of assistance. Article 6 should be improved and contain specific wording on procedures.

Tanzania was comfortable with the present formulation but shared the desire to strengthen the provisions further and agreed with the Zambian statement. Tanzania also saw merit in the Canadian proposal for national plans.

Panama agreed with the Canadian proposal for paragraph 3. Panama also supported the proposal of Denmark, Germany, France and Sweden contained in CCM/37 on paragraph 9 *bis*, however it did not agree with the word “regimes” in the fourth line, which might require a change in internal legislation. Panama also called for different wording for “favorable entry”.

Japan stated that those States exercising jurisdiction and control over territory can most effectively provide assistance and that Japan supported Article 6 as it stands.

The **Cluster Munition Coalition** supported the emphasis on the duty of user States to provide assistance and stated that Article 6(2) should contain a general obligation on clearance. The CMC encouraged and supported the proposals made by Zambia and Canada.

Ethiopia supported statements made regarding the strengthening of Article 6, and also Article 5. Regarding Article 6, its provisions should be strong enough to accommodate the needs of victim countries that do not have the resources or the know-how to mitigate the consequences of cluster munitions.

The President informed delegations that Article 6 would be revisited in the Committee of the Whole later in the week once it was clear what progress was being made in informal negotiations. Members of the President’s team would speak to delegations that had made statements to further explore their positions on Article 6.

The meeting rose at 12.50 p.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/CW/SR/3

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF THIRD SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Tuesday, 20 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 3 p.m.

Article 7

The President, proposed to examine the draft text of Article 7, addressing transparency measures, supplementing the draft Convention's provisions on stockpiling, destruction and clearance and non-proliferation of cluster munitions. He pointed out that amendments had been proposed to the substantive provisions of the treaty addressing stockpiles, retention, destruction and clearance (Articles 2 and 3). Therefore, the elements of Article 7 addressing transparency on these matters should not be discussed until agreement had emerged on Articles 2 and 3. The remaining elements of Articles 7 could be discussed immediately.

Canada commented that Article 7(1) (j) should be amended to refer to the amount of area, as well as the type and quantity of cluster munition cleared. It was working on wording to propose regarding retention which it would present for later discussions.

Japan expressed its support for the reporting mechanisms in Article 7, but noted that careful consideration should be given to its scope and content in order to take account of national security concerns.

Botswana commented that Article 7 would require information to be reported to the UN Secretary-General. It referred to its earlier statement that Article 2's definition of "transfer" should encompass the transfer of cluster munition affected territory to another State for destruction. Article 7 should ensure a formal mechanism for monitoring the destruction of cluster munitions by that third State.

Belgium made a number of suggestions for the re-drafting of Article 7. The word "submunitions" should be added to Article 7(1) (b). Paragraphs (c) and (g) should mirror this. Belgium also proposed placing point (e) after points (f) and (g). The reference in existing paragraph (g) to the status of the programme should be expanded to refer to both the destruction and clearance of cluster munitions. Paragraph (j) should require reporting on the amount of area of cluster munition remnants cleared as well as a breakdown of the quantity.

Belgium further proposed adding a new paragraph (n) to Article 7(1) to include a reference to national resources available for fulfilling obligations. It also proposed an additional paragraph (o) to refer to the amount, type and destination of international co-operation and assistance provided under Article 6.

Finland supported these proposed changes, stressing that Article 7 should be clear that it only refers to cluster munitions prohibited under the Convention.

The **United Kingdom** agreed that the obligation to report should be limited to the scope of Article 2's definition of cluster munitions once agreed. It suggested that a single national contact point would be preferred under paragraph (m), as set out in CCM/41. A query arose regarding the obligation of annual reporting in Article 7(2) – would this obligation be open-ended or would it end once the relevant obligation ceased? The United Kingdom would prefer the latter. It suggested that the obligation in paragraph (h) to report on the types and quantities of cluster munitions destroyed in accordance with Article 3 would more appropriately take effect once the relevant deadline in Article 3 for compliance with this obligation had expired.

Chile agreed with the United Kingdom that the various articles of the Convention should be consistent. Article 7 required two types of reports to be made by States parties – an initial report under paragraph 1 and an annual update in paragraph 2. Some of the content of paragraph 1 was not in line with the notion of the initial report, for example paragraph (h). Article 7(1) and (2) should be refined to clarify exactly what information is required in each report. Paragraph (c) should also be strengthened to provide for full transparency on stockpiled cluster munitions.

Peru supported Chile's comments.

Indonesia commented that it had some difficulties with Article 7 as currently drafted.

Samoa referred to the importance of Article 7 to ensure compliance with the Convention. It would like a simplified reporting mechanism to be incorporated into the text or to be agreed with the depositary for suitable countries, such as small or developing nations not significantly affected by cluster munitions. This would promote greater adherence with the treaty.

Argentina supported the text of Article 7, but proposed that a new subparagraph could be added to Article 7(1) to reflect the possibility under Article 3 (if agreed) of keeping cluster munitions for training purposes. The proposal made by the United Kingdom in CCM/41 could address this.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** stated that transparency measures would be critical to the success of the Convention. While it was broadly satisfied with the text of Article 7, it wished to suggest small changes based on the

experience of the Mine Ban Treaty. It supported Belgium's proposed changes to Article 7. Article 7(l) (i) should encompass reporting on both the discovery and the subsequent destruction of stockpiles. It also suggested that the provisions of Article 7(1) addressing reporting on clearance and victim assistance should be fleshed out, using similar language to sub-paragraph (g) to include reference to plans and timelines in order to ensure the full implementation of these obligations. In paragraph (j), it supported the proposal that both the area and quantity of cluster munitions remnants cleared should be referred to. It also supported the inclusion of a paragraph requiring States to provide information on resources. States should also be required to report on their obligation of international co-operation and assistance in Article 6.

The floor was returned to participating States.

Australia agreed that transparency measures should be linked to the scope and definitions of the Convention. Appropriate transparency measures could also assist in resolving the matter of the retention of cluster munitions for training purposes.

The President proposed informal discussions to be conducted by his team on a bilateral basis with all delegations that had intervened on Article 7. The Committee of the Whole could then return to discussing Article 7 following these discussions.

Article 8

The President opened discussions on Article 8. This provision closely mirrors the corresponding Article 8 of the Anti-Personnel Landmines Convention, though the present draft text omits any reference to fact-finding missions. This element of the Landmines Convention has never been used, and has been deemed by some to be redundant. He proposed conducting an initial discussion on Article 8, which the Committee could return to later.

Argentina considered the text of Article 8 to over-simplify the procedures of the Ottawa Convention. That text had been extremely detailed. Argentina suggested revisiting the Ottawa provisions to see what important elements could be included in the draft treaty. Otherwise, verification missions might not occur in practice. It stated its willingness to consult on the adaptation of the Ottawa text to the present Convention.

Indonesia stated that it could generally support Article 8. It would be preferable to include more paragraphs on convening a special meeting of States Parties, similar to the Ottawa Convention.

The floor was given to observer delegations.

The **Cluster Munition Coalition** commented that additional discussion would be required on verification procedures. A reference to fact-finding

missions was possible but the experience of the Anti-Personnel Landmines Convention showed a lack of willingness to utilise such missions. It suggested that an informal body might be responsible in the first instance for the initial examination of compliance matters. This might avoid more formal procedures.

The **International Federation of Red Cross and Red Crescent Societies** wished to clarify whether the reference in Article 8(5) to “the use of co-operative measures referred to in Article 5 of the Convention” (victim assistance) was correct.

The President considered that informal consultations would be necessary on the text of Article 8. Mr. Halisa Mabhongo would act as a Friend of the President in this regard.

Mr. Mabhongo stated that he would first consult bilaterally with interested delegations and would then decide if an informal meeting should be convened. The President welcomed this approach and stated that discussion on Article 8 would be re-opened in the Committee of the Whole following informal consultations.

Article 9

The President opened discussions on Article 9 stating that national implementation measures will depend on the substantive obligations that emerge, but it would still be useful to have an initial discussion.

Botswana raised the issue of non-State actors possessing cluster munitions, for example, rebel movements. While only States Parties are normally the subject of international conventions, situations do arise where non-State actors possess cluster munitions and may use them in civil strife, for example from a neighbouring country. It suggested that the issue of sanctions against States giving sanctuary to such rebel movements merited a closer look.

The **Philippines** referred to its proposal, as contained in CCM/56, to add additional text to Article 1, including a new paragraph (4) on non-State actors. This would read “Armed groups that are distinct from the armed forces of a State shall not, under any circumstances, engage in any activity prohibited to a State Party under this Convention”.

Indonesia pointed out that Article 9 already made reference to the obligation of States Parties to take appropriate measures to prevent prohibited activity under the Convention being carried out by persons under its jurisdiction or control.

The floor was opened to observer delegations.

Ethiopia wished to align itself with Botswana’s concerns regarding “transfer” and referred to its position paper, as contained in CCM/CRP/1.

The **Cluster Munition Coalition** stated that it was broadly happy with the text of Article 9, which mirrors the wording of the Landmine Convention. National implementation measures would be essential to the full implementation of the treaty. It suggested that a deadline might be included in Article 9.

The floor was returned to participating States.

Botswana supported the inclusion of a deadline on national implementation.

The President stated his intention to make proposals on Article 9 later in the week.

Article 10

The President opened discussions on Article 10, dealing with the settlement of disputes.

The **United Kingdom** raised the reference in Article 10 to the possible referral of disputes under the Convention to the International Court of Justice ("ICJ"). Not all States Parties will be parties to the Statute of the ICJ. It suggested revising the wording of Article 10(1) to state "referral, by mutual consent, to the International Court of Justice in conformity with the Statute of the Court," as proposed in CCM/43.

Indonesia supported this proposal.

Sierra Leone supported this proposal.

Botswana agreed with the proposal but sought clarification on the matter of enforcement of any relevant ICJ decision.

France stated that Botswana's concern was addressed by the terms of the Statute of the International Court of Justice itself, which obliges States to apply the decision of the International Court of Justice in good faith.

The floor was given to observer delegations.

Ethiopia raised the issue of enforcement mechanisms for contravention of the Convention under Article 10. It sought clarification on the role of the UN Security Council or the role of regional organisations such as the African Union in the event of non-compliance.

Article 11

The President opened discussions on Article 11, dealing with the Meetings of States Parties.

The **United Kingdom** commented that the proposed text largely followed the corresponding provision of the Ottawa Convention, save for the reference to decisions on the “interpretation” of the Convention. It considered that this may present difficulties where such decisions ran counter to previous interpretative declarations of States. It also made a general comment that the increasing number of international treaties involving regular meetings and reporting obligations. These commitments are difficult for States, even well-resourced States, to meet and thought should be given to the rationalisation of States meetings under international treaties.

Indonesia expressed its support for Article 11 as drafted.

The floor was given to observer delegations.

The **Cluster Munition Coalition** commented that the Article doesn’t reflect the reality of the Meetings of States Parties where most discussion would centre on Article 11(1) (a). The substantive obligations of the Convention should be clearly laid out to allow for its fullest implementation.

The **International Federation of Red Cross and Red Crescent Societies** pointed out that the provision in Articles 11(3) and 12(3) for the attendance of non-States Parties as observers at meetings of the States Parties and the Review Conferences made reference to the International Committee of the Red Cross, but failed to refer to national Red Cross and Red Crescent societies and their International Federation (as Article 6(7) did). The International Federation suggested that the Articles concerned might be amended accordingly.

Article 12

The President opened discussion on Article 12 dealing with review conferences. No proposed amendments had been tabled on this Article. It proposed to issue the text of Article 12 to the Plenary, subject to the understanding that nothing is agreed until everything is formally agreed.

The floor was given to observer delegations.

The **International Federation of Red Cross and Red Crescent Societies** repeated its point about attendance at meetings in the context of Article 12(3) on Review Conferences.

The President responded that the relevant paragraphs of Articles 11 and 12 did not prevent the attendance of the International Federation at meetings of States Parties and Review Conferences. No participating State had proposed an amendment to address this point.

The floor was returned to participating States.

Mexico stated that it was willing to take up the amendment to Articles 11 and 12 suggested by the International Federation of Red Cross and Red Crescent Societies.

Panama supported this amendment.

The President stated that this amendment to Articles 11 and 12 could be considered by the Committee of the Whole later in the week.

Articles 13-22

The President stated that the draft Convention conferred the role of the depositary on the UN, and also conferred certain other functions on the UN Secretary-General. The UN Office of Legal Affairs had made technical, legal comments on these aspects of the draft Convention. A President's Non-Paper would be circulated proposing technical modifications to Articles 13-22 to take account of these comments. These Articles would be discussed in the Committee of the Whole once delegations had an opportunity to consider the proposals.

The meeting rose at 4.15 p.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/4

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF FOURTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Wednesday, 21 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10 a.m.

Article 11

The President stated that the Committee of the Whole had conducted a useful discussion yesterday on Article 11. There was broad agreement on the text of the Article as set out in the draft with two small amendments which the President wished to propose. Firstly, the reference in the chapeau of Article 11(1) to “the interpretation, application or implementation of this Convention” should be revised to use the more standard reference to “the application or implementation” of this Convention, without any reference to interpretation. Secondly, the President proposed that the paragraph 3 should include the International Federation of Red Cross and Red Crescent Societies among the relevant international organisations to be invited to attend the meetings of the States Parties as observers.

Article 12

The President was satisfied following discussions in the Committee of the Whole that there was also broad agreement on the text of Article 12, subject to a small amendment to include the International Federation of the Red Cross and Red Cross Societies among the list of organisations in paragraph 3 for the purposes of attending Review Conferences as observers.

The President stated that he intended to forward the texts of Articles 11 and 12, amended as proposed, to the Plenary as Presidency texts. This would represent the President's own assessment on where agreement lies on the Articles. The text of the Articles would be issued by the Secretariat to delegates in the three working languages of the Conference. He reminded delegates that nothing is agreed until everything is formally agreed.

Articles 13-22

The President remarked that the Committee of the Whole had suspended its discussion on Articles 13-22 in order to allow delegations to consider the remarks made by the UN on these Articles. The UN Secretary-General had confirmed to the Irish government that he would act as depositary for the draft treaty. The draft treaty

also provided for certain other functions to be conferred on the UN Secretary-General. The President's team had consulted with the UN Office of Legal Affairs on the current draft of Articles 13-22. The UN OLA had suggested amendments of a technical nature to Articles 13, 18, 22. A President's non-paper had been issued yesterday afternoon to delegates. He proposed to adjourn the Committee of the Whole to enable delegates to consider the non-paper.

Informal consultations and bilateral discussions were continuing on other Articles and these would be addressed by the Committee of the Whole in later sessions.

The meeting was adjourned at 10.20 am

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/5

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF FIFTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Wednesday, 21 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 3.13 p.m.

The President announced that Presidency Texts on Article 11, set out in CCM/PT/1, and on Article 12, contained in CCM/PT/2, had been transmitted to the Plenary.

Article 13

The President then introduced Article 13 on arrangements for future amendment of the Convention. The text reflected certain changes proposed by the UN Office of Legal Affairs (OLA), changing the word “Depositary” to “Secretary-General of the United Nations”, to reflect the fact that the functions to be carried out are not strictly speaking functions of a depositary but functions of an administrative nature.

Vanuatu supported the amendment, as the original arrangement would have caused it difficulties. It takes time for feedback from a depositary to relate back to capital and direct communication with the Secretary-General would be helpful. Vanuatu also generally agreed with the draft Articles 18 and 20.

The **Philippines** referred to its proposal, as contained in CCM/61, with respect to the number of days within which notification was required. Due to a complex domestic clearance procedure, the Philippines suggested a turnaround time of 90 days, rather than the original 30.

As there were no other interventions, the President announced that it was his intention to transmit to the Plenary as a Presidency Text the text of Article 13 as circulated (which included the suggested OLA changes), taking into account the amendment suggested by the Philippines to change the notification period required from 30 days to 90 days. The President noted that there were no objections to this proposal.

Article 14

The President opened discussion on Article 14 on the costs of meetings.

The **United Kingdom** raised their proposal for Article 6, paragraph 10 which had the potential to incur costs on the UN. The United Kingdom therefore suggested that the reference to costs should also include a reference to Article 6.

Argentina was satisfied with the text of the draft Article 14 which had the same scope as that of the Ottawa Convention that it had already ratified. Argentina noted the proposal of the United Kingdom regarding Article 6 but requested further information, not just on the nature of the costs but on the actual amounts involved, as the UN Secretary-General's activities in the humanitarian field could be costly.

Guatemala supported the statement of Argentina requesting more information on actual costs incurred under Article 6 with respect to Article 14.

Venezuela supported the request of Argentina.

Panama shared the views expressed by Argentina. The text as drawn up was satisfactory as it was similar to that of the Ottawa Convention that had been ratified by Panama.

Uruguay supported the views of Argentina requesting more information.

The President announced that he would ask members of his staff to speak to the delegations that had made interventions on Article 14.

Article 15

The President then proposed that Article 15 on signature be passed to Plenary as a Presidency Text. The President noted that there were no objections to the proposal.

Article 16

The President then proposed that Article 16 on ratification be passed to Plenary as a Presidency Text. The President noted that there were no objections to the proposal.

Article 17

The President then opened discussion on Article 17 on entry into force.

France stated that it found Article 17 to be problematic. If universal adhesion was the goal, it would be paradoxical to have entry into force dependant on only 20 ratifications. France suggested the figure be revised to 40 (the figure used in the Ottawa Convention). France also noted that other instruments required 60 ratifications before entry into force, for example, the Convention on the Prohibition of Chemical Weapons, the Nuclear Test Ban Treaty and the Rome Statute of the International Criminal Court.

Switzerland, Indonesia, Slovakia, Fiji, the Netherlands and the Philippines supported the proposal made by France.

Germany stated that the figure of 40 ratifications would induce more States to sign and ratify the Convention more quickly.

The **Comoros** stated that the most important thing was to have as many States as possible accede to the Convention and thus supported the figure of 40.

The **United Kingdom** drew attention to its proposal set out in CCM/45, proposing a figure of 40 ratifications.

New Zealand drew attention to the contemporary trend towards 20 as a figure of ratification for entry into force on international agreements, giving the examples of Protocol V of the Convention on Certain Conventional Weapons, the International Convention for the Protection of All Persons from Enforced Disappearances and the Convention on the Rights of Persons with Disabilities. New Zealand supported the current figure of 20 ratifications.

Mexico, Níger, Austria, Argentina, Ireland, Uganda, Timor-Leste, Democratic Republic of the Congo, the Cook Islands, Mauritania, Mozambique, Madagascar, Nigeria, Lesotho, Panama, Zambia, Kenya, Mali, Belize, Ghana, Guinea, Burkina Faso, Paraguay, Vanuatu, Uruguay, Qatar, Swaziland and the Cluster Munition Coalition expressed support for the figure of 20 ratifications.

Norway pointed out the Geneva Conventions only required 2 ratifications for entry into force and that a lower number would mean that the Convention would enter into force more quickly.

Sierra Leone cautioned against a false dichotomy being set up between saving lives and global ownership of the Convention.

The President proposed that Article 17 be put aside.

Article 18

Regarding Article 18 the President introduced the suggested amendment taking into account the views of the UN Office of Legal Affairs, that is, adding at the end of Article 18 that the Convention will apply provisionally pending entry into force “for that State”. The President stated that he did not propose to discuss at this time the further proposal by Germany for Article 18, as set out in CCM/46. Article 18 should be read without prejudice to the proposal contained in CCM/46.

Article 19

The President opened discussion on Article 19 on reservations.

The **United Kingdom** noted that the provisions contained in Article 19 were becoming more commonplace in arms control treaties. The Vienna Convention on the Law of Treaties set out the legal ground rules and the United Kingdom requested that Article 19 be kept open pending the resolution of the issue of interoperability.

Slovakia stated it would be hard to join the consensus on Article 19 in the absence of agreement on Article 1.

The President concluded that Article 19 be laid aside pending further information.

Botswana noted a general trend in humanitarian issues that States should not be allowed to enter reservations. The competing argument in favor of state sovereignty was that States might be slower to ratify a Convention that did not allow reservations.

The **Czech Republic** supported the views of the United Kingdom and Slovakia that Article 19 should be returned to as a later stage.

Norway stated that the text should stand as it is and that no reservations should be allowed.

Australia shared the view that Article 19 belonged in the bundle of Articles that had not been concluded by virtue of its connection to Article 1.

The President stated that Article 19 would be left aside for further consideration.

Article 20

The President opened discussion on Article 20 dealing with duration and withdrawal.

The **United Kingdom** requested that the Article be returned to at a later stage as the United Kingdom delegation wished to raise a point on the text.

The President added that a number of countries, including the United Kingdom, had made a proposal regarding Article 20, as set out in CCM/48.

Indonesia noted that although the language was taken from the Mine Ban Treaty it would be better if notice of withdrawal were given in advance.

The Netherlands pointed out that the proposal contained in CCM/48 was not related to Article 20 in the draft Convention but was a suggestion for an additional article, which should be allocated another number.

The President stated that a member of his team would consult with interested delegations on Article 20.

Article 21

The President proposed that Article 21 on the depositary be passed to Plenary as a Presidency Text. The President noted that there were no objections to the proposal.

Article 22

The President introduced the proposals made to change the wording of Article 22 in response to the suggestions of the UN Office of Legal Affairs. This was a technical amendment providing that the Arabic, Chinese, English, French, Russian and Spanish texts of the Convention shall be equally authentic. The President then proposed that Article 22 be passed to Plenary as a Presidency Text. The President noted that there were no objections to the proposal.

The meeting rose at 4.06 p.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/CW/SR/6

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF SIXTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Thursday, 22 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10.10 a.m.

The President stated that yesterday's discussion of Articles 13-22 in the Committee of the Whole had been useful. Where broad agreement had emerged on certain Articles, the text would be issued to the Plenary as Presidency Texts. These would represent the President's own assessment of where agreement lies. Following yesterday's debate, Presidency Texts had been forwarded on Articles 13, 15, 16, 21 and 22. Articles 11 and 12 had also been forwarded as Presidency Texts yesterday. A total of seven articles had now been sent to the Plenary for consideration, and had been issued to delegates in all three working languages. The President reminded delegates that nothing in the Convention is agreed until everything is formally agreed. He invited delegates to check the different language versions of the Presidency Texts and to raise any errors in translation. The President invited the Committee to now discuss proposals which had been made for additional articles to the Convention. The Netherlands had submitted a proposal, set out in CCM/48, for an additional Article to address the Convention's relationship with other international agreements. The President remarked that the issue of the relationship between a treaty and other rules of international law arises every time a new treaty is created. The President noted that this is generally regulated by the relevant rules of the Vienna Convention on the Law of Treaties.

The **Netherlands** agreed with the President's remarks regarding the Vienna Convention, but nevertheless considered that it would be useful to make explicit provision in the text of the Convention on this matter. The Vienna Convention makes it clear that specific treaties supersede general ones and that later treaties prevail over earlier ones. The inclusion of a specific article of the kind proposed would address the draft Convention's relationship with Protocol V to the Convention on Certain Conventional Weapons, as both instruments would contain provisions on clearance and victim assistance. The Netherlands delegation was not in a position to go into a detailed legal analysis of the proposed article at this time.

Sweden expressed its support for the proposal of the Netherlands. While the Vienna Convention on the Law of Treaties addresses the relationship between related treaties on the same topic, it would be useful to include a specific article in the new treaty given the number of detailed obligations under both Protocol V to the Convention on Certain Conventional Weapons and the draft Convention.

The **United Kingdom** expressed its support for the views of the Netherlands and Sweden.

Austria reminded delegates that they were in the process of creating new international law in adopting the draft Convention. The suggested new article primarily related to the relationship with Protocol V of the Convention on Certain Conventional Weapons, to which Austria is a State Party. A preambular paragraph in the draft Convention refers to Protocol V, and Austria regards that as sufficient. It saw substantive legal difficulties with the Netherlands' proposal. For example, what is the scope and meaning of "any existing international agreement"? Legal uncertainty would arise if all such international agreements were considered to be complementary to the new Convention. Austria regarded the insertion of the proposed clause as unnecessary. At the least, its wording should be improved in order to achieve legal certainty. In Austria's view, the Vienna Convention provides sufficient rules to address the matter.

Norway agreed with the views of Austria. The proposed article was unnecessary as the Vienna Convention adequately regulates the relationship between different international legal instruments.

Australia supported the proposed article, which it regarded as a standard clause contained in several international treaties. In some cases, a specific provision is inserted into a treaty to state that it is intended to amend or contradict a previous international agreement. In other cases, the article states that new treaty is complementary to the existing regime. In the event that no such article is included, there is a presumption that treaties should be read in a manner which is complementary. The Vienna Convention contained a number of provisions that could also be inserted elsewhere. The proposed article would be a clear statement that there are other relevant international commitments elsewhere.

Finland reminded delegates that it had co-sponsored the Netherlands' proposal at the Wellington Conference and wished to confirm its support for the suggested article.

Lithuania agreed with the remarks of Austria and Norway. The suggested provision as formulated raised a number of questions. For example, what is meant by "parties" and "existing international agreement" in the article? When would an international agreement be considered to be "existing"? Lithuania considered that a provision to address the draft treaty's relationship with Protocol V of the Convention on Certain Conventional Weapons might be included in Article 4 rather than as a new article, if at all.

Honduras expressed its support for the views of Finland and others who had spoken in support of the proposal. The Vienna Convention recognises that each international

treaty imposes binding obligations on States Parties. The new proposed article would reflect this.

Sierra Leone stated that it appreciated the intent of the proposal but wished to align itself with the views of Austria and others. The controlling regime of the Vienna Convention is adequate, as well as the prevailing rules of interpretation of international law.

Belize expressed its support for the views of Austria.

Botswana stated that it wished to reserve its position as it was still studying the proposal set out in CCM/48.

Uganda supported Sierra Leone in considering the Vienna Convention to provide adequate rules to regulate this matter.

Nigeria considered that it was not necessary to include the new article. The additional text would be likely to create confusion.

Venezuela supported the views of Austria and Norway. The proposal would cause more difficulties than it would resolve, and might cause problems in the implementation of the Convention.

Albania agreed with Austria in considering the Vienna Convention to be adequate. There was no clarity on the meaning of the proposed article. Each convention stands on its own in international law.

Niger considered that the provision was not required as it would add confusion.

Germany wished to lend its support to the Netherlands' proposal. It considered that proposed new article was in keeping with the inclusion of a reference to Protocol V of the Convention on Certain Conventional Weapons in the Preamble to the draft Convention.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** shared the view of Austria and Norway that the rules of the Vienna Convention are adequate without the inclusion of the proposed new article.

The floor was returned to participating States.

Panama considered that the proposed article would cause difficulties as the meaning of "any existing international agreement" is unclear. What agreements would be considered to be complementary to the draft Convention?

Mexico stated that it was unable to support the proposal.

Burkina Faso stated that it was not willing to support the Netherlands' proposal.

Tanzania stated that it did not support the proposal and considered the Vienna Convention to be sufficient in this regard.

The **Dominican Republic** supported the views of Mexico, Panama and others.

Peru stated its support for the views of Austria.

Zambia did not support the Netherlands' proposal.

The President stated that he would ask his delegation to consult with those that had expressed views on the proposed new article. Following these discussions, the Committee of the Whole could return to discussing the matter.

The President referred to a proposal made by Switzerland, set out in CCM/50, which his team had discussed with the Swiss delegation. This was closely related to another proposal contained in CCM/46 which had been briefly dealt with in the Committee of the Whole yesterday. The President proposed to take up the discussion of CCM/46 and CCM/50 when the Committee returned to consider Article 18.

The Committee had now conducted an initial discussion of all Articles and all proposals for new articles. The President proposed to discuss the Preamble at a later stage as this would be affected by the Articles agreed. Bilateral and informal consultations were ongoing on a number of Articles. A President's Informal Paper on Article 4 was now being circulated to delegates. Members of the President's team were making bilateral contact with delegations on several Articles with a view to later discussion in the Committee of the Whole.

The President indicated that he intended to use the afternoon session of the Committee on Friday, 23 May to conduct an overview of progress to date. This would include reporting by any Friends of the President in a position to do so, and by the President's team, on the progress of consultations and bilateral discussions.

The **United Kingdom** drew attention to a paper it had circulated to delegations, containing the content of remarks by the United Kingdom Prime Minister's spokesperson yesterday on the draft Convention. This affirmed that the United Kingdom was working to ban cluster munitions that cause unacceptable harm to civilians.

The meeting rose at 10.45 a.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/7

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF SEVENTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Thursday, 22 May 2008

Chair: President O'CEALLAIGH

The meeting was convened at 3.08 p.m

Article 3

The President announced that the Friend of the President, Ambassador Kongstad, had held discussions on Article 3 and was now able to return with a paper following his discussions. The President suggested that following the presentation of the paper, Article 3 would be left with delegations, to be discussed at the Committee of the Whole on the morning of Friday, 23 May.

Ambassador Kongstad introduced his paper on Article 3. He had held two informal open-ended consultations and a number of bilateral discussions. Based on discussion of a revised draft, a second revised draft was now being circulated. Amendments had been made and some new language added, seeking a balance between various considerations. On paragraph 1, there was broad agreement that it was superfluous to maintain a provision on having separate facilities for stockpiles. Paragraph 2 had been amended to accommodate those who wanted a longer initial destruction period; it was now 8 years. Paragraph 3 introduced the possibility of having an extended destruction period of 4 years, which in exceptional circumstances could be renewed. Paragraph 4 strengthened existing transparency measures. Paragraph 5 was based on the Mine Ban Treaty provisions on management of extension requests, in order to save time and effort when the new Convention was implemented. Paragraphs 6 to 8 introduced provisions for the retention, acquisition and transfer of a limited number of cluster munitions for the development of training in detection and clearing, and for the development of counter-measures. Robust transparency measures had also been added, linked to Article 7.

The President then introduced a number of Articles on which the Presidency had undertaken bilateral consultations.

Article 9

A number of delegations had spoken on Article 9, dealing with national implementation measures at the Committee of the Whole on Tuesday, 20 May and one formal proposal had been made. Article 9 requires that measures adopted including penal sanctions shall apply in respect in any act prohibited under the Convention to any person under the jurisdiction or control of a State Party. This means that such measures shall apply to all persons under the jurisdiction or control of a State Party and not only to members of the armed forces of that State Party, and would include civilians or members of non-State armed groups that commit

acts prohibited by the Convention. It is therefore broad in scope.

The President was satisfied that there was broad agreement on the text, and proposed that the draft text of Article 9 be issued as a Presidency Text for transmission to Plenary, amended to include the proposal made by the Philippines to insert “to implement this Convention” as follows: “Each State Party shall take all appropriate legal, administrative and other measures, *to implement this Convention*, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control”. The President noted that there were no objections to the proposal.

Article 14

Article 14 on costs was discussed on Wednesday, 22 May, with one proposal for amendment, comprising of a suggestion to add a reference to Article 6 in paragraph 2 of Article 14 as follows: “The costs incurred by the Secretary-General of the United Nations under Articles 6, 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.” After consultation with the delegation concerned, the President was satisfied that their concern could be met by a small change to paragraph 10 of Article 6 which will allow agreement to be reached on Article 14 as it is and to forward unamended to the Plenary. The President noted that there were no objections to the proposal.

Article 20

The President stated that regarding Article 20 on withdrawal, a question had arisen concerning paragraph 4 which provides as follows: “the withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law”. This language had been taken directly from the Mine Ban Treaty and it was intended that those withdrawing from that treaty would still be bound by Additional Protocol II to the Convention on Certain Conventional Weapons unless they withdrew from that Protocol as well. As a result, a similar provision would appear to be redundant in this case. It was also clear that the Vienna Convention on the Law of Treaties set out the principles for the relationship between treaties concerning the same subject matter.

In these circumstances, the President proposed to delete paragraph 4 of Article 2 and to forward paragraphs 1-3 of Article 20 to the Plenary as a Presidency Text. The President noted that there were no objections to the proposal.

Article 10

The President noted that Article 10 on the settlement of disputes provides that when a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of the States Parties and referral to the International Court of Justice in conformity with the Statute of the Court.

One delegation proposed an amendment to make it clear that referral to the ICJ shall be by mutual consent. This would create a difficulty for those States that have already accepted the jurisdiction of the ICJ by prior agreement. The reference to mutual consent would undermine the standing consent that exists as a result of prior agreement. Moreover, the text already

makes it clear that the consent of all is required, as it states that “the States Parties concerned shall consult *together*”; if a dispute is to be referred to the ICJ, both Parties must choose to do so. The text also expressly requires reference “in conformity with the Statute of the Court” and the Statute confers jurisdiction only with the consent of the Parties. The President had spoken to the delegations that had suggested a specific reference to mutual consent and had satisfied them that inclusion of the provision was unnecessary. The President proposed to forward the text of Article 10 unamended to Plenary as a Presidency Text enjoying general agreement. He noted that there were no objections to the proposal.

The President then announced the proposed agenda for the Committee of the Whole on Friday May 23.

The Committee would discuss the text of draft Article 3 which has been provided by Ambassador Kongstad. The President also noted that during the discussion of Article 18 a proposal made by Germany for an amendment, as set out in CCM/46, had been put aside. The proposal of Slovakia contained in CCM/66 had also been put aside. During the discussions of the morning of Thursday 22 May on proposals for additional articles, the proposal of Switzerland, as set out in CCM/50, had been put aside. The President therefore proposed to discuss these three proposed amendments, as set out in CCM/46, CCM/50 and CCM/66, as well as Article 18 at 10 a.m. on Friday 23 May. At 3pm on Friday 23 May the Committee of the Whole would be given a general overview of all Articles of the Convention and the state of play as it would be at 3 p.m. It was hoped at that point to have further reports from the Friends of the President.

The meeting rose at 3.34 p.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/8

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF EIGHTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Friday, 23 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10.15 a.m.

The President opened the meeting, giving the floor to Deputy Minister of Foreign Affairs of Lao People's Democratic Republic, Bounkeut Sangsomsak, to make a General Statement.

General Statement

The **People's Democratic Republic of Lao** strongly supported the Oslo process for the banning of cluster munitions. As the most heavily bombed country on earth, it had great interest and hope at this final stage of the process. It did not want people of other countries to experience the pain which Lao had. Lao had a sad history as a victim of cluster munitions, with several thousand accidents having occurred since 1973. Mr. Sangsomsak noted that a Handicap International report recorded more than 13,000 casualties from cluster munitions in 74 countries: 36% of these incidents had occurred in Lao alone. The contamination of vast areas of land in Lao by cluster munitions had caused significant obstacles to economic development, and had impeded its progress in efforts to achieve the UN Millennium Development Goals.

As the country most affected by cluster munitions, Lao commended Norway for initiating the process to ban cluster munitions. It also commended the efforts of the international community. The treaty would establish important norms for international co-operation and assistance in clearing remnants of cluster munitions and providing assistance to victims, and for placing responsibility on user States to address the consequences of the use of cluster munitions. Lao considered that States should seek to give all civilians a safe and secure life, and strongly hoped that one day war would be made illegitimate and illegal.

Article 3

The President proposed to open the discussion on the draft text of Article 3 contained in an informal paper by a Friend of the President of 22 May, which had emerged from informal consultations led by Ambassador Kongstad.

Australia thanked Ambassador Kongstad for his efforts in conducting the informal discussions. The draft text was in keeping with Australia's position that certain changes were required to Article 3, for example a paragraph on retention. It welcomed the changes which had been

proposed in the informal paper to paragraphs 1-4 of Article 3. However, it wished to propose a change to Article 3(5) addressing requests by States Parties for extensions to the deadline in Article 3 for destruction of cluster munitions. It considered that the detail contained in Article 3(5) for the assessment of requests by States Parties was excessive. The procedures should be determined by States Parties after the conclusion of the negotiations. Australia proposed aligning Article 3(5) with the less detailed language of the corresponding provision of draft Article 4(7).

Argentina stated that it had carefully considered the text which reflected the result of detailed consultations. Nevertheless, having regard to the legal significance of Article 3, it would like to a Spanish language version of the informal paper available as soon as possible. Argentina had no objections to the English language version.

France congratulated the Friend of the Chair on the significant improvements which he had proposed to the text of Article 3. In particular, France welcomed the eight year deadline for destruction of cluster munitions, which it regarded as a reasonable timeframe. France was satisfied with paragraph 6 as proposed. France was unhappy with the final part of paragraph 5, echoing the view of Australia that the provision is too detailed in setting out the procedures for considering extension requests. It proposed that the final two sentences of that paragraph, beginning with “To assist States Parties ...” should be deleted from the text. Alternatively, France would be in favour of bringing Article 3(5) in line with the less detailed language of Article 4(7). France wished to associate itself with the remarks of Australia in this regard.

Canada remarked that it had originally proposed the text of draft Articles 3 and 4, with the intention of avoiding pitfalls which had emerged in the Ottawa extension process. Canada was not personally convinced of the case for not retaining that original language but in any event, Canada strongly favoured ensuring consistency between Article 3(5) and Article 4(7).

Panama expressed its wish to have the text of the informal paper on Article 3 available in Spanish.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** considered that the text of Article 3 had been weakened in informal consultations. The basic deadline for destruction of stockpiles had been extended from six to eight years. There had been no explanation by States of the criteria for arriving at either of these deadlines. While the Cluster Munition Coalition welcomed the modifications that had been made to the provisions on requests for extensions, it questioned the need for including the possibility of an extension period in the draft Convention at all. This possibility provided a disincentive to States for timely compliance, regardless of whether the extension period was actually required by a State. The Cluster Munition Coalition was pleased with the detail and transparency provided for by the draft Convention on extension requests. It accepted Canada’s point that Article 3(5) and Article 4(7) should be consistent, but would fall in favour of including as much detail as possible on the extension request process.

The **Cluster Munition Coalition** was unconvinced of the need for States to retain cluster munitions for training, development or military counter-measures. However, given that a retention clause had been added in paragraph six, it welcomed the requirements on transparency which had been included. The clause’s requirement that only the “minimum number absolutely necessary” for this purpose should be retained had been drawn from the language of the Ottawa Convention. That had proven to be ineffective and controversial in some instances, with States

disagreeing on what the minimum number required was. Some States had not treated the concept of a minimum number in a sufficiently serious manner. The Coalition considered that States should express their views on the meaning of this concept in the course of negotiating the Convention. This would establish guidance on the meaning of the phrase in the diplomatic record of the Convention.

The **International Committee of the Red Cross** was concerned that Article 3(3) created the possibility of open-ended extension periods *ad infinitum*. It should be possible to determine the outer limit from the text of the treaty. It agreed with the Cluster Munition Coalition that the experience of the landmine ban had shown that States frequently requested unjustified extensions of time. A higher threshold was required under Article 3(4) (b) for States seeking to justify the request for an extension. The International Committee of the Red Cross suggested that the wording could be revised to require States to provide “a detailed explanation of the *exceptional circumstances* leading to the proposed extension” rather than merely requiring a detailed explanation of the reasons.

The **International Committee of the Red Cross** considered that it would be useful to include the degree of precision contained in the informal paper on Article 3(5). The process for considering extension requests had taken several years to agree in the context of the Landmine Convention. The International Committee of the Red Cross was of the view that maintaining the proposed wording would allow the focus to remain on the actual extension request, rather than on establishing the process, in the early years of the Convention.

The floor was returned to participating States.

Germany expressed its agreement for the informal paper as it stood, but stated the International Committee of the Red Cross’s remarks deserved careful consideration. Germany considered the text of the proposed Article 3 to be inconsistent as regards paragraphs 6 and 7 regarding the transfer of cluster munitions. It suggested that the following words should be deleted from paragraph 7 – “and training in detection, cluster munitions and sub-munitions clearance or destruction techniques” – as this aspect was already sufficiently addressed in paragraph 6.

Burkina Faso expressed its wish to have the Presidency texts available in all three working languages of the Conference.

Indonesia stated that it was generally comfortable with the text of the informal paper on Article 3. It would give positive consideration to the remarks of the ICRC and the proposal made by Germany. It also wished to propose a technical amendment to the last line of paragraph 5, referring to the President of Meetings of States Parties or Review Conferences to the Convention. The text should state “to assist him *or her* in that task” as it was possible that a woman might one day act as President.

The **United Kingdom** sought guidance from the President on the status of the International Committee of the Red Cross’s comments on the text, in light of Rules 1, 30 and 31 of the Conference.

Mexico stated that it disliked the inclusion of paragraph 6 on retention in Article 3. This could lead to loopholes weakening the text of the Convention. It supported the ICRC’s suggestion that detailed explanations justifying the request for an extension should be required. It would appreciate a Spanish version of the informal paper being made available.

Honduras stated that it was broadly opposed to the retention of cluster munitions. It might be acceptable for training purposes, but in any case they should not be maintained in large amounts. On the issue of deadlines, clear reasons should be required for any request for an extension. Honduras spoke of its experience of a meeting in Jordan on the Anti-Personnel Landmine Convention, where States had sought extensions after the ten year period without providing convincing reasons. This could occur here too. Honduras also requested the text of the informal paper in Spanish.

Nicaragua stated that it did not think it was appropriate to discuss the Friend's proposals on Article 3 before the informal paper had been distributed in all three working languages of the Conference.

Cambodia stated that it was comfortable with the text presented by Ambassador Kongstad.

Peru welcomed the text which it considered made significant progress in establishing consensus among delegates. The text of the treaty must, in so far as possible, satisfy the aspirations of all. While adjustments to Article 3 might be required, Peru agreed with the deadlines suggested in the informal paper and welcomed the transparency measures and measures on retention suggested. Peru participates in peacekeeping missions and needs to have its team trained in deactivation of cluster munitions.

Senegal stated that it would prefer to have a French version of the informal paper. It considered that there were two problems with the proposed text of Article 3. Firstly, it was not convinced that provision should be made for training on live cluster munitions. Senegal was concerned about the possibility of fraudulent measures for transfer of cluster munitions under the pretence of training.

Spain pointed out that it has an international demining centre which carries out training activities. Spain had requested the possibility of keeping cluster munitions for that purpose in the process of negotiating the Convention. Spain considered that it was important to maintain the possibility of training experts from other countries for the purposes of clearance of cluster munitions. Spain was surprised at some countries' opposition to this.

Ghana stated that it was prepared to agree generally with the text of Article 3 as set out by the Friend of the President. However, Ghana shared Senegal's concerns about transfer and considered that training should take place without live munitions.

South Africa considered the text proposed to be carefully balanced, reflecting the concerns of many delegations. South Africa was ready to consider the text favourably.

The President thanked all delegations for their contributions to the discussion. He wished to make two general comments. Firstly, on the matter of translation, an informal discussion paper of a Friend is not a formal document of the conference. Outside of the Plenary and the Committee of the Whole, the working language of the conference is English. When a Presidency text of Article 3 was issued, the text would be made available in all three working languages.

With regard to interventions by observer delegations, only participating States can propose amendments to the text of the Convention. A Friend of the President can take the comments of observer delegations into account in seeking to reach consensus on the text. The comments of the

ICRC on Article 3 this afternoon had been favourably supported by a number of participating States.

The President welcomed the informal paper on Article 3 which showed a great deal of progress had been made by the Friend. In light of the proposals for textual changes which had been made by delegations in the course of the discussion, he asked Ambassador Kongstad to carry out further informal consultations to see if agreement could be reached on the text.

Article 6

The President stated that his team had conducted bilateral discussions with interested delegations on Article 6, following the debate in the Committee of the Whole. These discussions had been constructive, and the President believed that some minor amendments to Article 6 would be capable of securing agreement on the text. The amended text of Article 6 would be circulated as a Presidency Non-Paper for discussion in the Committee of the Whole on Monday.

Proposal for additional text on transition periods

The President noted that three proposals had been made for a transition period to be provided for in the Convention. Germany had proposed amendment to Article 18 in this regard, as represented in CCM/46, while an additional article to provide for a transition period had been proposed by Switzerland, as set out in CCM/50, and Slovakia, as set out in CCM/66. The President did not wish to re-open the text of Article 18, which had been discussed by the Committee of the Whole earlier that week.

Switzerland had submitted a proposal for additional text on a transition period. Certain elements of the Convention, such as the definition of cluster munitions, were central to this issue and were still under consideration. Switzerland proposed postponing the discussion on transition periods to a later date. It hoped to return next Tuesday with a common proposal following discussions.

Japan agreed with Switzerland. The question of a transition period was heavily related to definitions that were not yet resolved.

Denmark supported Switzerland's remarks.

Slovakia referred to CCM/66 proposing the introduction of a transition period. It supported Switzerland's suggestion that the discussion should be postponed until next week as the question of a transition period was closely related to the outcome of discussions on Articles 1 and 2.

Mexico considered the question of a transition period to be a delicate aspect of the draft Convention. Mexico would be opposed to its inclusion. It looked forward to further discussions on this point.

Argentina disliked the concept of including a transition period, which would be negative in an instrument of this nature. There was a risk that allowing a transition period would lead to a greater use of the weapon. It would be happy to pursue discussions on this matter next week.

Mauritania considered transition periods to be unsuitable in this Convention, as it would allow the use, transfer and stockpiling of cluster munitions.

Costa Rica shared the views of Argentina and Mexico that a transition period should not be included. It suggested discussing this issue next Monday rather than Tuesday. The explanation

that it was linked to other Articles of the draft treaty was not a convincing reason for postponing the discussion.

Guatemala stated its opposition transition periods as a counter-productive concept which would set a bad precedent in the new treaty.

Guinea stated that there must be consistency in the result achieved in negotiating the new treaty. States should not work to ban cluster munitions causing harm and damage yet give States leeway to use them in the same instrument. It was open to discussions on this topic, but the objective of the Convention having immediate effect must be remembered.

Zambia stated its opposition to the inclusion of a transition period.

Panama stated that it was concerned at the tenor at the Swiss proposal which went against the spirit of the draft Convention.

Sweden commented that it had been active in seeking to ban cluster munitions even before the Oslo process, and had been a co-sponsor of the Oslo Declaration. There should be no doubt about Sweden's position on the Convention. However, Sweden considered that the introduction of a transition period would strengthen the effect of the Convention on the ground by ensuring that more States could become parties.

Honduras stated that it was against the proposed transition period which would undermine the Convention. If the effect of cluster munitions was extended through transition periods, the States Parties would be responsible for the blood of innocent people. Its view was unlikely to change in future discussions on this matter.

Venezuela opposed the proposal for a transition period which would do nothing to strengthen the draft Convention.

Austria considered that a transition period would be a fundamental shortcoming in the new Convention, allowing the legitimate use of cluster munitions for a certain period of time. This would undermine the Convention. States requesting the inclusion of a transition period had already recognised that these weapons caused unacceptable harm to civilians. A transition period would create two tiers of States Parties, those immediately committed to the treaty and those availing of the transition period. Neither the Mine Ban Treaty nor the Chemical Weapons Convention contained transitional periods of this kind.

Chad was opposed to the inclusion of transition periods in a Convention which is intended to ban cluster munitions.

Along with **Japan, Denmark, Slovenia and Sweden, Germany** supported the Swiss proposal as contained in CCM/50.

The following countries opposed the introduction of transitional destruction periods:

Norway, Cook Islands, Lebanon, Ecuador, Nigeria, Chile, Lao People's Democratic Republic, Paraguay, Togo, Belize, Sierra Leone, Niger, Malta, Uruguay, Kenya, Lesotho, Burundi, Nicaragua, Indonesia, Madagascar, Tanzania, Benin, Botswana, Peru, Burkina Faso, Bolivia, Comoros, Sao Tome and Principe, Uganda, Mali, Seychelles, Congo,

Mozambique, Sudan, Vanuatu, Senegal, Bosnia-Herzegovina, El Salvador, Croatia, Democratic Republic of the Congo, Cote d'Ivoire, Ghana, Montenegro, Malaysia, Iraq.

The **Cluster Munition Coalition** and the **International Committee of the Red Cross** also opposed any transitional period.

The **United Kingdom** suggested that given the obvious differences on the topic the President could appoint a Friend to conduct negotiations on the issue. This suggestion was supported by **Slovakia**.

Costa Rica did not agree with the suggestion of the **United Kingdom** that a Friend be appointed to conduct further consultations. As interpretation is not available for the informal meetings chaired by Friends of the President, the matter should remain in the Committee of the Whole. **Panama, Niger, Venezuela, Nigeria, Malta** and **Nicaragua** agreed with the statement of Costa Rica.

Venezuela further stated that the majority of delegates were opposed to a transition period (applause).

The President requested that delegates conduct themselves with proper decorum.

Honduras also stated that it was inappropriate to appoint a Friend but that if a Friend were appointed he should involve the GRULAC countries who unanimously rejected the proposal for a transition period.

Sierra Leone raised a question on mechanisms for further discussions and requested that the object of further consultations should be made clear.

France supported the proposal of **Sweden** and further considered that the matter should be discussed within the Committee of the Whole.

The President stated that further effort would be required to overcome differences. Those States seeking transitional periods must convince other States of the necessity for such periods. Delegations with proposal should conduct consultations to try and develop understanding on the issue. The President proposed that Germany take the lead on such consultations.

Germany agreed to carry out consultations.

Costa Rica raised a procedural question on Germany's role in carrying out consultations

The President responded that Germany had not been appointed as a Friend of the President but as the first country to submit a proposal had been asked to consult on its position with other States.

Article 5

The President then introduced the Non-Paper on Article 5, which had been introduced by the Friend of the President, Mr. Markus Reiterer of Austria. The President clarified that Article 5 on victim assistance should be seen as relating to the provision by the States Parties of assistance to all persons under their jurisdiction or control without distinction. All issues relating to international cooperation and assistance fall within Article 6.

Mr. Reiterer introduced his Non-Paper on Article 5 and thanked delegations for their constructive engagement on the text. The first amendment proposed was to the Preamble. The language in the 2nd preambular paragraph had been changed to be consistent with the language of paragraph 5(1). The third preambular paragraph had been amended to include the element of age and gender and the special needs of vulnerable groups. Three changes had been made to the definition of “cluster munition victim” as it appears in Article 2. The term “all” had been added before “persons” to encompass all persons who had suffered harm regardless of their status as migrants, refugees, Internally Displaced Persons etc. An amendment was also made to take into account the most extreme form of physical injury, those “who had been killed”. In the last sentence of the definition, “affected” had been added before families and communities.

In Article 5 (1), the words “applicable” had been added before the reference to human rights and international humanitarian law. Reference was also made to age and gender sensitive assistance. Paragraph 2 had been redrafted to be more specific on how obligations should be implemented. Language building on the experience of the Mine Ban Treaty and the issue of needs assessment had been added. States Parties will have to develop national plans and budgets with a view to incorporation into existing national disaster plans. Sub-paragraph (e) on the issue of nondiscrimination provided that no discrimination be made against or amongst cluster munitions victims. The only reasons for difference in treatment should be the differing needs of victims.

Language had also been added to include consultations with victims and existing good practices on victim assistance.

Honduras raised a question as to whether the text of Article 2 could be amended to include reference to those that had been killed so as to tally with Article 5.

The President responded to the statement of Honduras by clarifying the proposed text would replace the existing text in Article 2.

Honduras thanked the President for his clarification and requested that the reference to those killed in Article 2 be incorporated into the headings.

Indonesia raised a question on the content of paragraph 2(h) and asked what guidelines and practices were being referred to.

Chile expressed its satisfaction with the text. The text was also strongly supported by **Serbia, Switzerland, Cambodia, Ghana, Spain, Austria, Canada, Guatemala, Belgium, Fiji, France, United Kingdom, Cook Islands, Nigeria, Ecuador, Mali, Uganda, Croatia, Germany, Vanuatu, Senegal, Guinea, Venezuela, Zambia, Chad, Lebanon, Burundi, Mozambique, Bosnia and Herzegovina, Madagascar, Dominican Republic, Sweden, Sudan, Montenegro, Sierra Leone, Guinea-Bissau, United Nations High Commissioner for Refugees, Iraq, Thailand, Cluster Munition Coalition, and Austria.**

The **Philippines** also expressed its satisfaction with the text, particularly welcoming the President’s understanding that the word “all” would include non-nationals of affected States. The Philippines raised the issue of a reference to the special responsibility of user States as similar language appears in the informal paper on Article 4(4).

The President reminded the Philippines that the language on user responsibility under Article 4 was still under discussion.

The **International Federation of Red Cross and Red Crescent Societies** also expressed support for the draft Article and suggested a small drafting change to the first sentence of Article 5, to change the word “areas” with “territories” to bring into line with other Conventions.

The President proposed to forward the text of the Non Paper on Article 5 to Plenary as a Presidency Text. The President noted that there were no objections to the proposal.

The meeting rose at 13.03 p.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/9

18 June 2008
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DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF NINTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Friday, 23 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 3.15 p.m.

The President wished to conduct an overview of the draft Convention as it currently stands. This would allow delegations to consider the progress to date and consult further over the weekend. He intended to leave discussion of the Preamble to the end of the negotiations. However, the discussions on Article 5 had dealt with several paragraphs contained in the Preamble addressing victim assistance. These particular paragraphs had been forwarded to the Plenary as a Presidency Text.

Article 1

Article 1 addressed general obligations and the scope of application of the draft Convention. Ambassador Christine Schraner was acting as a Friend of the President in conducting discussions on Article 1, focusing on interoperability. Several other proposals had been made on Article 1, and contacts were being pursued by the President's team with the delegations that had proposed them.

Ambassador Schraner stated that she had carefully consulted with all States. The text she had presented took into account, in so far as possible, the views expressed. In conducting discussions, she was mindful of the humanitarian objective of the Convention, the need to ensure the integrity of Article 1, and concerns about interoperability, the safety of military personnel and the universality of the Convention. The Convention must be capable of the greatest possible accession by States but its purpose and objectives must be stringently safeguarded.

The need for a new article addressing interoperability had been accepted in the informal consultations. There was broad consensus on paragraphs 1 and 2 of the text proposed in Ambassador Schraner's informal paper. More consultations were required on paragraphs 3 and 4.

The President thanked Ambassador Schraner for the text she had presented, and agreed that it may require further elaboration. He invited delegations to consider the text, noting that Ambassador Schraner would be available for bilateral consultations with delegates over the weekend.

Article 2

The President noted that the discussion of the definitions contained in Article 2 had excluded the definition of “cluster munition victims” which had been dealt with in discussing Article 5 on victim assistance. The revised text of the definition of “cluster munition victims” had been forwarded to the Plenary as a Presidency Text. The President invited Ambassador Don MacKay, who had acted as a Friend of the President on Article 2, to take the floor.

Ambassador MacKay stated that his consultations had focused on the most contentious issue of the definition of a “cluster munition”, namely whether an Article 2(c) should be included in the draft Convention. He had held a series of open-ended informal meetings with delegates. A strong divergence of views remained on whether an Article 2(c) should appear. He had initially circulated a list of elements that might be included in Article 2(c). The consultations were measured against the mandate given by the President, and the benchmark of the Oslo Declaration which required the prohibition of cluster munitions causing unacceptable harm to civilians. The draft Convention was intended to address the problem of inaccurate and unreliable cluster munitions. An effects-based approach had been taken in the informal consultations, where the proposed elements had been measured both singly and cumulatively against the need for accuracy and reliability. A list of possible independent elements had been the first basis for discussion by delegates. Several delegations had proposed a cumulative approach whereby several elements in combination might be considered to place a weapon below the threshold of the Oslo Declaration. In light of these discussions, the Friend of the President had prepared an informal paper for this session setting a cumulative approach to the elements of a definition of cluster munitions.

Ambassador MacKay stated that the informal consultations had facilitated a full exchange of views on various elements of the definition. In an informal meeting on the morning of Thursday, 22 May, the Friend had presented a discussion paper, and possible language for Article 2(c) had been discussed. As a result of that discussion, the discussion paper had been revised into the version prepared at today’s meeting. Some delegations had also made proposals on the definition of cluster munitions following the informal consultations.

Ambassador MacKay emphasised that the discussion paper was not an agreed text, but represented the Friend of the President’s own assessment of possible language for Article 2(c), if it is to exist. Fundamental differences remained on an Article 2(c) and whether or not it should be included. A formal proposal had been made for its deletion. The discussion paper was not a compilation of the proposals made in informal consultations, and those proposals receiving little support did not appear in the paper. Ambassador MacKay expressed his appreciation to Lieutenant Colonel Jim Burke of Ireland, who had convened informal discussions on other definitions appearing in Article 2 at his request.

The President invited Lieutenant Colonel Jim Burke to report on progress made on definitions in Article 2, other than that of “cluster munition” and “cluster munition victims.”

Lieutenant Colonel Burke stated that he had chaired two relatively brief sessions on other definitions in Article 2, as open-ended informal meetings. He now submitted a short paper dealing with “other definitions”. Lieutenant Colonel Burke outlined some changes proposed by his informal paper to the existing draft text of Article 2. He proposed that the definition of “explosive sub-munition” should refer to a munition that in order to perform its task separates from a *cluster* munition, rather than from a parent munition as originally proposed. There was no consensus that this definition should refer to a *conventional* munition.

The originally proposed definition of “unexploded cluster munition” had been removed and replaced by two separate definitions of “failed cluster munition” and “unexploded explosive sub-munition.” The definition of “abandoned cluster munitions” had been altered slightly by the addition of the words *left behind* in order to ensure consistency with Protocol V to the Convention on Certain Conventional Weapons (CCW). The definition of “cluster munition remnants” had been changed to reflect the amendments proposed to previous definitions.

The definition of “transfer” had not been changed from the original draft text. This definition was drawn from Amended Protocol II to the CCW and the Ottawa Convention. Some delegations favoured this approach, but more work was required to reach consensus on the definition of “transfer.”

Lieutenant Colonel Burke referred to Norway’s proposal to add definitions of “self-destruct mechanism” and “self-deactivation mechanism” to Article 2, as set out in CCM/72. Other delegations had suggested language based on Amended Protocol II to the CCW. Lieutenant Colonel Burke had set out suggestions for these two definitions, if required, in his informal paper. These definitions were based on the language of Amended Protocol II to the CCW, with some slight changes. The definition of “self-destruction mechanism” proposed was intended to make clear that this function is separate to that of the primary fusing mechanism. With regard to self-deactivation, Lieutenant Colonel Burke commented that this is not, strictly speaking, a mechanism but a feature of a system that will inevitably exhaust itself. The final definition proposed in the informal paper, that of “cluster munitions area”, was based on a proposal made by Indonesia. Lieutenant Colonel Burke said that he would host further informal consultations on the basis of the informal paper on Sunday, 25 May.

The President invited delegations to consider the informal paper over the weekend in advance of further discussions.

Article 3

The President thanked Ambassador Kongstad of Norway for conducting informal consultations on this Article, dealing with storage and stockpile destruction. The Committee of the Whole had had a useful discussion this morning on the basis of an informal paper provided by Ambassador Kongstad.

Ambassador Kongstad stated that he was close to finalising a new draft and would shortly provide the President with a new informal paper for discussion.

Article 4

The President thanked Lieutenant Colonel Burke for acting as Friend of the President in pursuing informal consultations on Article 4, dealing with clearance and destruction of cluster munitions remnants. Lieutenant Colonel Burke had circulated an informal paper for discussion.

Lieutenant Colonel Burke stated that he had held open-ended informal meetings and bilateral consultations on Article 4. The paper submitted was based on these discussions. While there was a large measure of agreement on Article 4, one paragraph in particular had caused difficulties. He outlined some changes from the original draft text of Article 4 which he had proposed in the informal paper. In Article 4(1), the initial period for compliance with the clearance and destruction obligation had been increased from five to ten years. The deadline for the corresponding obligation for clearance and destruction of future cluster munition

remnants had been revised accordingly. In Article 4(1)(c), he suggested a reference to the requirement on States to report on the status of clearance and destruction activities, an obligation which is spelt out in more detail in Article 7. Sub-paragraph (d) proposed requiring States to make a declaration of compliance with these obligations to the Meeting of States Parties.

In Article 4(2), some small changes had been proposed in sub-paragraphs (a) and (b) which were not very substantive. The proposed reference in sub-paragraph (c) to “take all feasible steps” was intended to revise the language of the Ottawa Convention in order to reflect the difference between cluster munitions and landmines. The text proposed had been drawn from language contained in Protocol V to the CCW, as cluster munitions are similar to explosive remnants of war.

Discussions on Article 4(4) had been most difficult. The informal paper proposed two substantive changes and one structural change. The structural change involved placing the requirement for information in sub-paragraph (b) and referring to other forms of assistance in sub-paragraph (a). A reference was proposed in sub-paragraph (b) to information being provided “where available” to reflect possible difficulties in obtaining such information.

The changes proposed in paragraphs 5, 6 and 7 had been discussed in detail in informal consultations where a large measure of agreement had been achieved. Lieutenant Colonel Burke proposed holding bilateral consultations to continue informal discussions on Article 4(4).

The President agreed that Lieutenant Colonel Burke should continue with these bilateral discussions on Article 4(4). The President summarised the progress that had been made to date on the remaining articles of the draft Convention as follows.

Article 5

The Committee of the Whole had held a good discussion on this provision of the Convention on victim assistance, on the basis of text provided by the Friend of the President, Mr. Markus Reiterer. A Presidency Text on Article 5, as set out in CCM/PT/12, would be forwarded to the Plenary in all three languages.

Article 6

Members of the President’s team were conducting discussions with delegations on this Article. The President intended to circulate a Non-Paper on Article 6 this afternoon to facilitate discussions next week.

Article 7

Consultations on this Article by the President’s team were underway. The finalisation of reporting requirements in Article 7 would depend on the outcome of negotiations on Articles 3-6. The Committee of the Whole would discuss Article 7 again next week.

Article 8

Mr. Xolisa Mabhongo, of South Africa, acting as a Friend of the President, reported on the informal consultations which he had pursued with delegations. He had shared a text with delegates and would convene another informal meeting today to continue discussions. He was guided in his efforts by the President’s call for delegations to consider adopting a streamlined text on Article 8.

Articles 9-16

Presidency Texts on each of these Articles had been forwarded to the Plenary for consideration.

Article 17

Different views had been expressed by delegations earlier in the week during the Committee of the Whole's discussion of this issue. The Committee would return to discussing this Article at a later stage.

Article 18

The text of Article 18, including a slight amendment proposed by the UN Office of Legal Affairs, had been discussed earlier this week. Germany had made a proposal for a transition period to be included in Article 18. Two other delegations had made proposals for an additional article providing for a transition period. A wide gap had emerged between delegations in discussions during the Eighth Session of the Committee of the Whole on this point. As the first State to formally make this proposal at the Wellington Conference, Germany had been asked by President to consult delegations on proposals for a transition period and report on discussions on Monday.

Article 19

Discussion on Article 19 had been set aside pending the outcome of negotiations on other Articles.

Articles 20-22

Presidency Text had been transmitted on these Articles to the Plenary for consideration.

The Netherlands stated that it had made a proposal for an article addressing the new Convention's relationship with other international agreements. It was in the course of conducting consultations with delegations and would revert early next week.

The meeting rose at 3.50 p.m

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/10

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF TENTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Monday, 26 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10.09 a.m.

The President reminded delegates of his previous statement that a Convention would be concluded this week and of his intention to reach general agreement on a text, to be adopted on Friday morning. Substantive work must finish on the evening of Wednesday 28 May in order to allow preparation of authentic texts in the official languages, to be formally adopted on the morning of Friday 30 May. The President then proposed that Committee of the Whole discussions begin, starting with the Preamble. The Committee would then discuss the work carried out by Friends of the President on Articles 3 and 8, followed by the Presidency non-paper of 23 May, containing proposed changes to Article 6. The President then proposed to have a discussion of the paper of the Friend of the President, Ambassador Schraner, on the relationship between Parties to the Convention and those not party, that is, a discussion on interoperability and other issues within the context of Article 1.

Preamble

The President stated that general agreement on preambular language on victim assistance as proposed by Mr. Reiterer had been reached and then opened the floor to delegates to discuss the rest of the Preamble.

Indonesia introduced their proposal for a new preambular paragraph contained in CCM/53. The purpose of the paragraph was to recognize the grave consequences of the use of cluster munitions, as stated in the Oslo Declaration

The **International Committee of the Red Cross** had raised a number of proposals for the Preamble at Wellington; the United Kingdom had also presented changes. Both Parties had worked to come up with language that would resolve all proposed changes and it was suggested that the United Kingdom present the text that had been drafted.

The **Cluster Munition Coalition** expressed the view that the Preamble should recognize that the area effects of cluster munitions during attacks are as important a basis for the Convention as unexploded ordnance in post-conflict situations. The International Committee of the Red

Cross had proposed good language in Wellington and the Cluster Munition Coalition hoped to see it included.

The **United Kingdom** had worked on suggestions for the Preamble together with the International Committee of the Red Cross and proposed to take forward informal consultations on the non-paper jointly produced by the United Kingdom and the ICRC.

Indonesia then clarified that the proposal contained in CCM/53 also contained a second element, that is, a proposal on the promotion of the universalisation of the Convention, using similar language to that of the Mine Ban Treaty.

Canada welcomed informal discussions on the first intervention. The suggestion of the Cluster Munition Coalition with respect to the International Committee of the Red Cross text, on addressing the impact of cluster munitions during attack as well as post-conflict was supported. Canada also proposed that the Preamble contain a reference to UN Security Council Resolution 1325 on the differential impact of conflict on different genders. Canada supported a strong reference to encouraging the universalisation of the Convention.

Norway supported the Preamble as it stands and supported the proposal by Canada to include a reference to UN Security Council Resolution 1325. The proposal to include a reference to Resolution 1325 was also supported by **Argentina** and **Sweden**. **South Africa** also supported the Canadian proposal.

Botswana welcomed further informal discussions on the Preamble, particularly on the suggestions of the Cluster Munition Coalition. Botswana also called for the inclusion of language in the Preamble referring to cooperation of non-state actors. This proposal was supported by the **Philippines** who welcomed language on the role of non-state actors either in the Preamble or in Article 1. The inclusion of language on non-state actors was also supported by **Uganda**.

Argentina supported the proposal of Indonesia.

Canada supported Argentina's suggestion to include a reference to children in armed conflict and also supported the proposal of Botswana to include a reference to non-state actors.

The President stated that Ambassador Millar of Australia had agreed to act as a Friend of the President on the issue and would convene open-ended informal consultations.

Article 3

Friend of the President, Ambassador Kongstad, stated that minor changes had been made as a result of consultations and that general agreement had been reached on a text. The President announced that the text would be circulated in the Committee of the Whole and then would be forwarded to Plenary as a Presidency Text later in the day.

Article 8

Ambassador Mabhongo stated that his consultations were ongoing and that the current text was likely to be agreed today. He was hopeful to be able to return with a text to the Committee of the Whole today that could then be forwarded to the Plenary.

Article 6

The President then introduced the President's non-paper on Article 6 on international cooperation and assistance. The proposed text was intended to reflect the cooperative spirit in which delegates were gathered and under which the efforts of affected states, donor states, and international organisations come together. Bilateral consultations had taken place and based on the views expressed a non-paper had been circulated with possible amendments suggested. The proposals made by Canada had been included in paragraph 3. The first sentence of paragraph 4 contained a reference to Article 4(4) and there had been a proposal to delete this reference. It was not possible to finalize this aspect of Article 6 until discussions on Article 4 have been concluded. A drafting change to paragraph 7 had also been made to change from a capital to a small letter. A formal proposal to delete paragraph 8 had encountered opposition in discussion and the paragraph had thus been retained. Paragraph 9 was new, added as result of proposals made in Wellington contained in CCM/37, which had commanded considerable support during Committee of the Whole discussions on 20 May. Words had been added to the first line of paragraph 9 *bis* as result of the proposal made by Argentina, Inadvertently, the proposal had not been reflected correctly in the text. The word "or" in the first line should be replaced by "and" to read as follows: "Each State Party that seeks *and* receives assistance shall..." so that States Parties are only obligated to facilitate assistance if they had actually sought it. In the chapeau of paragraph 10, the reference to the United Nations was to now read United Nations system, an addition mentioned in the Committee of the Whole during the discussion of Article 14. The word "coordination" had been added in sub paragraph (e) of paragraph 10 at the suggestion of the United Kingdom.

France supported the new amendments in the non-paper without reservation. France agreed with the suggestion of the President that paragraph 4 should be re-examined after discussions of Article 4(4) have been settled. On the last line of paragraph 4, on lists of experts, expert agencies or national points of contact, it was appropriate to include the destruction of sub-munitions and not just clearance. France proposed the addition of "and on destruction of cluster munitions" after the word remnants to read "...clearance of cluster munition remnants, and on destruction of cluster munitions ...".

The President stated that as similar language on clearance and destruction of cluster munition remnants existed in Article 4 this proposal should be acceptable. The President suggested the language "expert agencies or national points of contact on clearance and destruction of cluster munition remnants and related activities". **France** agreed with this suggestion.

Lao PDR had no major objections to the proposed text and agreed that the beginning of Article 6(4) should be revisited after Article 4(4) had been decided. On paragraph 9 and the unimpeded import of equipment and material, the issue of explosives used to destroy sub-munitions was raised. The Government of Lao could not support the facilitation of assistance involving the importation of explosives for reasons of national security; the text could be supported if it was clear that explosives were excluded.

The **Philippines** stated that it attached great importance to the obligations contained in Article 4(4) of the last informal paper and that this should be borne in mind when discussing Article 6(4).

Norway raised a question on the inclusion of language on the clearance of stockpiles. Norway understood that stockpiles were not remnants and therefore that clearance language was inappropriate.

The President clarified that Article 4(4) dealt with remnants and that paragraph 5 dealt with stockpiles.

Indonesia clarified that it understood the French proposal to relate to line 3 of paragraph 4. Indonesia accepted the thrust of the new paragraph 9 but stated that the technicalities included could be better dealt with through bilateral arrangements between donor and receiving States. Rather than including such details in the Convention, Indonesia proposed that the paragraph could stop after word “implementation” in line 3. The proposal to end after the word “implementation” was supported by the **Philippines, Uganda, Chile and Cambodia**.

Sierra Leone raised a question on the meaning of the final phrase of paragraph 9 “unimpeded import”. Was it a subjective or objective test and who would decide? They requested the one of the supporters of the proposal clarify the intent.

South Africa supported the suggestions of Argentina for paragraph 9 *bis*. However, South Africa had a problem with the second part; the concepts of favourable entry and visa regimes added were likely to contradict domestic laws, requiring them to be changed. The suggestion from Indonesia that the sentence end after implementation was the most appropriate. South Africa indicated that they were comfortable with what was contained in the original draft Convention. **Lesotho** and **Zambia** supported the view of South Africa to end paragraph after “implementation”. **Uganda** also agreed with the proposals of Indonesia and South Africa that the element of state sovereignty be respected above the granting of favourable regimes. **Venezuela** supported Indonesia, South Africa and others that paragraph 9 *bis* contained too much detail on matters within the competence of nation States.

Austria suggested an amendment to paragraph 7, to bring it into line with Article 5. The following change was suggested for the end of the first line “for the assistance of cluster munition victims according to Article 5”.

On the proposal for paragraph 9 *bis* the **Netherlands** stated that there was common understanding that assistance is given by mutual agreement but that basic provisions needed to receive and give assistance effectively should be inserted. The details in the last part are essential elements to overcome issues that have in practice proved to be obstacles in the giving and receiving of assistance. The Netherlands supported the proposal of Argentina that paragraph 9 *bis* read “each State Party that seeks *and* receives....”

The **Philippines** referred to the proposal contained in CCM/58 on the responsibility of user States, and the discussion of the working group where it was agreed not to pursue such a concept under Article 5. It was requested that the Philippines’ idea be introduced into Article 6.4 at an appropriate place.

Germany stated that paragraph 9 *bis* had special value in detailing the role played by the receiving state. Germany favoured keeping the text as it stood and supported the Argentinean proposal. It did not support the proposal of Indonesia and South Africa to stop text at the word “implementation”. The details that follow were intended to help better implementation of the future Convention.

Botswana reserved the right to return later and agreed with the proposal by Indonesia for the introduction of paragraph 4. On paragraph 9 *bis*, Botswana was inclined to go with the South

African proposal to end the paragraph in line 3; the rest of the paragraph had ambiguities that would be solved by the proposal to end the paragraph earlier.

In reaction to the statements of the Netherlands and Germany, **South Africa** stated that their concerns could be efficiently met on a bilateral basis. Alternatively, South Africa suggested the adding of the wording “in accordance with national laws and policies”, after “...effective implementation thereof” as a way of moving discussion forward.

Canada supported the proposal of Indonesia for a reference to “destruction” in paragraph 4. Canada supported the Austria proposal for a reference to Article 5 in paragraph 7. Canada also strongly supported the wording of paragraph 9 *bis* and could not support ending the paragraph after implementation. Canada had previously encountered serious problems with giving assistance in the context of the Mine Ban Treaty, for example, the imposition of duties on equipment.

Sweden supported the position of Germany and Canada and suggested that there maybe ways to look at text again. On the comment of Lao PDR, equipment would also include explosive materials.

As the basis of the Convention was a cooperative approach the **United Kingdom** could see why some might argue that the language of paragraph 9 *bis* was over prescriptive.

Mexico stated that the Preamble was generally acceptable. On paragraph 9 *bis*, though the need to facilitate activities of those providing assistance was understood, the language might be over prescriptive. Mexico supported the South African suggestion for wording “in accordance with national legislation”.

Sudan supported the position that it was not necessary to keep details in paragraph 9; a State that seeks assistance will not act against its interest. Visa matters relate to sovereignty and it would not be proper to state such provisions in the Convention.

Ghana stated that paragraph 9 *bis* clearly spelled out the obligations of donors and receiving States and suggested replacing “favourable” with “appropriate” and that the last line be amended to reflect that any decision taken must be in last line to be in conformity relevant domestic laws.

Sierra Leone stated that the positions of States re paragraph 9 *bis* were coalescing around two approaches. One was a shortened version, the second was to retaining the paragraph but to look at the language again. Given the element of prejudgment and the anticipation of problems in the current draft, Sierra Leone supported the position of the United Kingdom that the text was overly prescriptive.

Canada suggested that the specificity in current text might go too far and suggested the insertion of the following wording after the word “implementation”: “including facilitating the entry of personnel, materiel and equipment in a manner consistent with national laws”.

Ethiopia agreed with the Austrian proposal for paragraph 7. On paragraph 9 *bis*, Ethiopia supported South Africa, Indonesia and others on respect for state sovereignty and the limiting of language.

Guinea also supported the proposal of Canada adding that it should meet the misgivings of Lao as it balances concerns on the entry of assistance and with those of national concerns. Guinea could find consensus on that basis.

The proposal of Canada for paragraph 9 *bis* was also supported by **Mexico** and **Chile**

The President suggested that Canada carry out bilateral discussions and return to the Committee of the Whole with proposals later in the week. Canada accepted to carry out bilaterals.

Article 1

The President stated that the issue of interoperability and relations with non-States parties had initially been considered in Article 1. However, Ambassador Schraner (acting as a Friend of the President in conducting informal discussions on this matter) had concluded last Friday that there was a general agreement among States that a new article, rather than an amendment to Article 1, should address interoperability. The President proposed to structure discussions as follows: firstly, to consider proposals made on Article 1 excluding any discussion of interoperability and; secondly, to discuss Ambassador Schraner's proposal on interoperability which had been circulated last Friday. Any proposals made regarding transition periods in the context of Article 1 would also form part of this later discussion.

The President noted that the remaining proposals on Article 1 related to the scope of the Convention. A proposal had been made to delete the reference to "mine" in Article 1(2). Ireland had proposed extending the scope of the Convention to include dispensers, as set out in CCM/15. The remaining proposals related to amendments of a drafting nature.

Ireland stated that it had first proposed the inclusion of dispensers at the Wellington Conference. It proposed including a new paragraph in Article 1 stating that "Dispensers, affixed to an aerial platform and designed to disperse or release explosive bomblets, are subject to the same provisions as cluster munitions." This would necessitate consequential amendments in Article 2, for example a corresponding definition of "explosive bomblet" and "unexploded explosive bomblet". These corresponding definitions are set out in CCM/25.

The **United Kingdom** stated that the definition set out in the Irish proposal might be too broad, having regard to the technical complexity of weapons systems.

The floor was opened to observer delegations.

The **Cluster Munition Coalition** expressed its support for Ireland's proposal.

The **International Committee of the Red Cross** supported Ireland's proposal, which would prevent the problem caused by cluster munitions from being repeated by the use of similar small explosive munitions.

The floor was returned to participating States.

The **Philippines** raised the matter of including a reference to non-State actors in the Convention. It would not necessarily insist on this reference being included in Article 1: it was open to the possibility that it could be included in the Preamble.

The President stated that informal consultations on the Preamble could incorporate discussion of whether a reference to non-State actors might be included there.

Canada expressed its support for the spirit of the Irish proposal, but echoed the United Kingdom's comment that the language must be sufficiently precise to ensure that it does not a wider field of application than what the Convention is intended to capture.

Ghana expressed its support for Ireland's proposal, which it considered would strengthen the text of the Convention.

The President stated that his team would consult with delegations that had expressed views on these issues and would prepare a non-paper in light of these consultations.

Interoperability

The President stated that a series of widely attended informal consultations had been held last week on the issue of interoperability. Delegations had also had a useful discussion within the Committee of the Whole of text proposed by the Friend of the President, Ambassador Christine Schraner.

Argentina stated that several delegations shared a general reservation about including the concept of interoperability in the Convention, as it may create a window for the use of cluster munitions by military coalitions. Argentina had been unable to participate in the last round of informal consultations, but had taken part in earlier discussions on interoperability. It considered that the views of Argentina and others were not adequately reflected in the Friend's text. Despite concerns voiced about inclusion of the concept, paragraph (c) of the Friend's text actually widened the scope of interoperability by referring to Article 1 as a whole and not merely Article 1(c). The interoperability concerns of some States had originally been understood to relate exclusively to Article 1(c). The text as it now stood was moving away from an area of agreement. Argentina had reservations about the proposed Article.

Australia considered that the informal consultations had been positive. There were two issues that it wished to raise. Firstly, it was uncertain about the meaning of the last sub-paragraph of paragraph 3. It also considered that there were problems with the phrase "expressly request the use of" in paragraph 4. This was an unfortunate expression which might prove problematic on the ground. This language needed further refinement.

Jamaica proposed the insertion of the words "use of cluster munitions" in paragraph 3 to address a potential use of cluster munitions in a specific operation.

Canada considered that the draft text was a good starting point regarding interoperability concerns. It supported Australia's concerns about the interpretation of certain phrases.

Denmark supported the remarks of Australia and Canada, stating that it had interpretive difficulties with paragraph 4.

The Netherlands stated that it was indispensable to find an adequate solution to the issue of interoperability. Much progress had been made but work on this issue was not yet concluded.

Mexico stated its view that interoperability had no place in the Convention. It shared Argentina's views about paragraph 3, which it considered to expand rather than restrict the exception. The article would create a lacuna which had no place in the Convention.

Venezuela thanked Switzerland for its efforts but stated that the concept of interoperability would facilitate an exemption undermining the Convention. It would risk creating two orders of States Parties, those complying immediately with the Convention and those continuing to effectively have recourse to cluster munitions. It was unconvinced that this Article should be included.

The **United Kingdom** stated that there had been uncertainty on several sides on this issue. The text of the Friend of the President was a good basis but problems remained. It accepted that there were concerns that the draft text widened the scope of the interoperability provision. A clear understanding of the meaning of "assist" in Article 1 of the Convention was required. The United Kingdom referred to its domestic criminal law which defined being an accessory to a crime as one who aids, abets, counsels or procures the commission of an illegal act. The Convention must be drafted with a realistic legal position. The United Kingdom considered that the process of a political declaration was important. Paragraph 4 of the draft text should ensure that States Parties cannot use the interoperability provision as an exception to their obligations under Article 1. The wording of the draft text had become somewhat convoluted, losing sight of the underlying message on interoperability.

Italy considered that the draft text was a good basis for discussion. It supported the United Kingdom's position, and shared Australia and Canada's concerns regarding the final paragraphs. Further elaboration was required in the text.

Honduras stated that it objected to the inclusion of the term interoperability in the Convention. It would allow States to make cluster munitions available to others. The term was inappropriate in a Convention seeking to eliminate cluster munitions and their use.

The President reminded delegates that the term "interoperability" does not itself appear in the text.

Zambia wished to draw attention to paragraph 3(a) of the Friend's text. The African group of States was of the view that the inclusion of the word "may" here might be helpful. The paragraph could read "host States...which *may* engage in activities described in Article 1." A similar amendment could be made to paragraph 3(b) to include the word "may". Zambia agreed with the proposal of the Cluster Munition coalition to include the rest of paragraph 3 as it stood. It had reservations about the concept of "effective control": this would require further study to avoid problems of interpretation. In paragraph 4, the African group proposed that it should read "Nothing in paragraph 3 of this Article shall, however, authorise a State party to itself *develop, stockpile, produce, transfer and otherwise* use or expressly request the use of cluster munitions." Zambia emphasised that it had difficulties with the concept of interoperability but considered this to be an element of compromise in the negotiations.

Japan stated that the proposed Article on interoperability should be read as a whole. It considered that the text struck a delicate balance meeting the various concerns of States. Issues remained but States were close to reaching general agreement. It was prepared to continue discussions based on the Friend's text.

Guatemala supported the remarks of Argentina and Mexico. It was willing to consult further on the issue of interoperability.

Indonesia stated that delegations must seek to leave as few loopholes as possible in the Convention regarding States' obligations under Article 1. It noted that proponents of a provision on interoperability had stressed that they did not intend to leave a loophole in the Convention. Many States had legal obligations arising in the context of joint military operations. The text provided was a good basis to ensure that any loopholes were as minimal as possible.

Uruguay stated that paragraph 3 was unacceptable as currently worded. It supported the remarks of other South American delegations.

The **Former Yugoslav Republic of Macedonia** stated that the purpose of the interoperability provision was not to create a loophole, but to ensure that States politically willing to join the Convention could have practical cooperation with States not Party. It agreed with Japan that the text should be considered as a whole. It also agreed with Canada and the United Kingdom on the need for clarity regarding the meaning of paragraphs 3 and 4.

Belize aligned itself with the comments of the United Kingdom. States were committed in the Oslo process to achieve a Convention garnering as much support as possible.

Austria stated that it had consistently understood the need for some States to have an interoperability provision contained in the Convention. Additional language may be required to address concerns about paragraph 3.

France stated that while considerable progress had been made on the matter of interoperability, some issues remained for clarification.

Germany stated that the issue of interoperability was very important. It supported the remarks of France, the United Kingdom and others. It also welcomed the very flexible comments of Zambia, Indonesia and Austria. The text of the proposed article might be improved, but the inclusion of an interoperability provision was essential.

New Zealand agreed that the proposed article must be read as a whole. It regarded the various paragraphs as achieving a delicate balance. It had some suggestions which it would put forward in further informal consultations on interoperability.

Sierra Leone inquired whether sufficient time remained available to delegations to reach consensus on the matter of interoperability. What was the timeline envisaged by the President?

The President responded that sufficient time must be made available.

The floor was opened to observer delegations.

The **International Committee of the Red Cross** stated that it had expressed its views on interoperability in the informal consultations. It asked for further efforts to clarify paragraph 3(b), particularly the meaning of "that State Party, its armed forces or individual nationals." There may be some inconsistency with the chapeau of paragraph 3. It understood the intent of

the provision, but considered that its formulation was in some sense repetitive. The subjects and objects of paragraph 3, particularly 3(b), should be clarified.

The **Cluster Munition Coalition** stated that it understood the need of some States to protect their troops from liability in joint operations. It was encouraged by what it took as the United Kingdom's acknowledgment that the text proposed might be seen as widening the scope of the interoperability provision. It suggested that paragraph 3 should be replaced by simpler language modeled around this objective. The Coalition particularly objected to the reference to hosting non-States Parties in paragraph 3(a). It considered that the concern of delegations in negotiating the interoperability provision was joint military operations with the United States, not with other countries. The United States was not participating in the talks and other States should not negotiate on their behalf.

The stigmatisation of cluster munitions must be achieved to ensure universal adherence to the Convention. States should not support a loophole allowing troops to call in back-up involving the use of cluster munitions. The stockpiling of US cluster munitions should not be allowed.

The President welcomed delegates' discussion of the proposed interoperability provision. It was clear that further consultation was required on this matter. Ambassador Schraner remained available to continue informal consultations.

Ambassador Schraner stated that she had listened carefully to the comments of delegations and would conduct bilateral consultations to collect proposals. She would also hold an informal meeting with concerned States at 3pm that afternoon.

The President stated that the Committee of the Whole would return to discussing definitions at 3pm that afternoon. UNDP would host a briefing on technical terms at 2pm. A revised Article 3 non-paper had been distributed to delegations for consideration that afternoon.

The meeting rose at 1 p.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/11

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF ELEVENTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Monday, 26 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 3 p.m.

The President stated that delegates would firstly discuss Article 3, followed by Article 2, in this session of the Committee of the Whole. Informal consultations on the Preamble to the Convention, and on interoperability, would occur in parallel meetings during the afternoon.

Article 3

The President stated that a revised paper on Article 3 had been circulated by the Friend of the President, Ambassador Kongstad, on 25 May. He invited Ambassador Kongstad to introduce the paper.

Ambassador Kongstad stated that Article 3, relating to storage and stockpile destruction, was important to achieving core objectives of the Convention. The paper circulated sought to reflect the views expressed by delegations in the extensive informal consultations on this issue. He expected that it would attract broad agreement.

The President noted Ambassador Kongstad's confidence that there could be broad consensus on the text proposed. He stated his intention to forward it to the Plenary but wished to first hear the comments of delegations.

The **United Kingdom** asked what was intended by the reference to "financial means" in Article 3(4) (b)? It raised the issue of confidentiality under European Union contract law, requiring that financial details are not disclosed until a tender process is completed. Would this provision cause difficulties in that respect? It also sought clarification on what type of benchmarks were envisaged by paragraph 5.

Canada commiserated with the Friend of the President that some text that would have made it simpler to execute the extension provisions had to be removed following the objections of some delegations.

The **Cluster Munitions Coalition** was concerned that the text of Article 3 was being gradually weakened. This article is crucial to achieving the humanitarian objectives of the Convention. Stockpiles of cluster munitions must be destroyed as soon as possible. It had particular concerns about the retention clause. The Coalition wished to focus now on the obligation of States under paragraph 6 to keep only the minimum number of sub-munitions absolutely necessary for the purposes of training and development. The experience of the Ottawa Convention had shown that a divergence of views had emerged among States on the meaning of this obligation. Most States agree that the minimum number is in the hundreds or thousands but not in the hundreds of thousands. States should express some parameters in the negotiations here. It should be clear from the diplomatic record how this notion should be conceived.

Ambassador Kongstad responded to the questions posed by the United Kingdom. Regarding paragraph 4(b), the current text only called for an overview of financial requirements, not for detailed information which would be inconsistent with regional tendering procedures. In paragraph 5, the reference to benchmarks could encompass timelines, milestones or similar elements.

The **United Kingdom** stated that it was satisfied if Article 3(4) (b) did not require the divulgement of financial figures in advance of a contract being let.

The President stated that this could be taken as understood. He proposed to forward the revised Article 4 as President's text to the Plenary. It would be made available in all three working languages of the conference.

Article 2

The President stated that definition of "cluster munition victim" had been forwarded last Friday as Presidency Text to the Plenary following discussions on Article 5 dealing with victim assistance. Further definitions in Article 2 required discussion. He proposed to firstly discuss the definition of "cluster munition" in this session of the Committee. Ambassador MacKay had acted as Friend of the President in leading informal consultations on this definition. The United Nations Development Program ("UNDP") had also conducted two briefing seminars on this topic. A paper circulated by Ambassador MacKay last Friday would be opened for discussion now.

France stated that it supported the clear objective of the Oslo process, a ban on all cluster munitions causing unacceptable harm. It drew attention to a joint communication of its Ministry of Foreign Affairs and Ministry of Defence stating that France had decided to withdraw the M26 cluster munition from service immediately. This represented in excess of 80% of France's stock of cluster munitions.

Regarding the definition of cluster munition in the draft Convention, France considered that the definition proposed should be strengthened to better fulfil the Oslo mandate. It considered that there were potential dangers with the latest proposal of the Friend of the President. The current text risked covering weapons that should not be banned due to their intrinsic nature. France expressed its full support for Norway's proposal that a weight criterion should be introduced into sub-paragraph (c). This

criterion had been consistently proposed throughout the Oslo process and had been mentioned with approval by the UN and civil society representatives. This criterion would be an important aspect of the effective implementation of the Convention. It supported the cumulative approach put forward by Norway which would incorporate the weight criterion. It would ensure that exemptions were limited and more accurately defined.

The **United Kingdom** stated that it considered the clause to be one of the most important in the Convention. A detailed definition of the exemption was fundamental. It valued the views which had been expressed by the International Committee of the Red Cross on this issue throughout the negotiations. Ambassador MacKay's paper should make clear in line 1 that a cluster munition means a *conventional* munition.

Spain considered that the aim of the exceptions was to lay down criteria by which a cluster munition would not cause unacceptable harm to civilians. There were two consequences of cluster munitions leading to unacceptable harm: (i) cluster munitions detonating by accident after military use, and (ii) those indiscriminately affecting areas and potentially injuring a civilian population. The final proposal of the Friend of the President retained a criterion which had previously been rejected, namely the quantity of sub-munitions. This was an arbitrary figure.

Spain was of the view that the definition proposed privileged a particular launch technique over other technologies. It was unconvinced that a weapon with self-neutralisation and self-deactivation functions (referring to Norway's proposal in CCM/72) could not cause unacceptable harm. It also considered that there should be a further definition of the term "pre-defined area" in sub-paragraph (b) in order to avoid the indiscriminate use of weapons affecting non-military targets. For a weapon to be deemed safe, its effects in a pre-defined area must be considered, not its launch technology.

Switzerland stated that the language adopted in Article 2(c) must not undermine the Convention's objective of banning cluster munitions causing unacceptable harm to civilians. Switzerland was happy to go forward on the basis of the proposed text.

Costa Rica stated that it was unhappy with paragraph (c), and referred to its proposal with other States for its deletion, as set out in CCM/71. It requested additional information on the reference to "air defence systems" which had been incorporated into paragraph (a) of the proposed text. It sought clarification on what munitions were included here. Costa Rica expressed support for the remarks made by Spain.

Germany considered the definition of "cluster munition" to be a crucial element of the new Convention. States must agree this definition properly against the background of the Oslo objectives. It was happy to proceed on the basis of the draft text but there must be consistency in the definitions adopted. Sub-paragraph (c) should refer to explosive sub-munitions. Germany considered that a cumulative approach might be achieved in paragraph (c) by the inclusion of the word "all".

Germany also expressed unease about the reformulated chapeau in Article 2(c). The objective of the exemption was to ban area target munitions and allow point target munitions. The reference in the chapeau to "area effect" made this unclear.

Australia stated that it was generally supportive of the draft text. Regarding the inclusion of air defence systems, it considered that the best description might be air defence munition.

Argentina stated that it hoped consensus could be reached on the issue of defining a cluster munition. It considered the inclusion of air defence system in paragraph (a) to be confusing, given that this had not been included at the outset. Argentina would prefer the deletion of paragraph (c), but it was to be included the provision must be fine-tuned. It endorsed Spain's comments and stated that the definitions adopted should not benefit one type of technology.

The **United Kingdom** stated its strong preference for clarity in the definitions adopted. It referred to the remarks of President Kellenberger of the International Committee of the Red Cross, which emphasised that the main problems with cluster munitions were inaccuracy, unreliability and their use in massive numbers. A practical problem would arise if States were individually looking at systems and taking decisions on whether they were prohibited or not. A clear and common approach to definitions, based on precise criteria, was required. Exempted weapons should meet clear conditions based on point target or internal guidance capabilities.

Morocco stated that it considered the point target reference to be too vague to meet the requirements of the Oslo Declaration. The definition should look at the effects caused by the weapon's use.

Mexico stated that its delegation had formally proposed the deletion of Article 2(c). If Article 2(c) were to be included, it should limit the possible exceptions. It had doubts about the inclusion of the weight criterion. Mexico was opposed to the inclusion of new exemptions such as air defence systems. This should be looked at further.

Jamaica stated that it found it difficult to accept wide exemptions. It was committed to the Oslo Declaration, and was unconvinced that Article 2(c) did not leave loopholes open for the use of cluster munitions causing unacceptable harm.

Slovakia stated that it had concerns with the proposed Article 2(c), sub-paragraphs (a) to (d), which contained many subjective clauses, for example the reference to the number of sub-munitions. It also considered the reference to "electronic" self-destruction mechanisms and self-deactivating features to be too selective in singling out "electronic." Munitions might still fail despite these criteria and their overall reliability and risk of unacceptable harm should be borne in mind.

Norway stated that Article 2 must clearly and accurately distinguish prohibited cluster munitions from those that are not prohibited. It found the specific reference to air defence systems in the Friend's text to be somewhat peculiar and a relatively imprecise term. Would air defence munitions not be included within paragraph (c) if they meet the applicable criteria there? Norway's own proposal of a weight criterion was intended to be one of several cumulative conditions. This criterion would effectively prohibit the majority of cluster munitions causing unacceptable harm to civilians. Norway would circulate a short explanatory note on this proposal later in the afternoon.

Chile considered that Article 2 would provide the parameters for the Oslo Declaration's commitment to ban cluster munitions causing unacceptable harm by 2008. It was prepared to consider the proposals put forward on Article 2(c). It had some doubts about including references to numbers in this provision. It should make it clear that the exemption only applies to cluster munitions that do not cause unacceptable harm to civilians.

Guatemala supported other delegations that had called for the deletion of Article 2(c). It was unconvinced by the criteria set out in the proposed text but was prepared to continue negotiations.

Denmark stated that the inclusion of Article 2(c) was necessary in order to achieve the objectives of the Oslo Declaration. The proposals put forward incorporated considerations of accuracy and reliability. It hoped that a common wording could be agreed that was acceptable to all States.

Austria stated that there was no reason to include new exceptions. It supported the deletion of Article 2(c) but was prepared to discuss language on cluster munitions that do not cause unacceptable harm. It was uncertain about the language proposed, which set out abstract criteria without knowledge of the effects of the future weapons. It considered that effects-based language should be adopted. This should be complemented by a reporting requirement on new weapons and their effects in Article 7.

Venezuela stated that it was concerned about Article 2(c) favouring the use of certain technologies. It considered the proposed text to be slightly arbitrary. There was no evidence to prove that a munition meeting all of these criteria might not still be indiscriminate. The criteria should be backed by hard evidence.

Malta expressed its discomfort with Article 2(c), which was creating an exception that was difficult to define. It thanked Ambassador MacKay for setting out cumulative options. Some of these elements could be usefully included, for example the weight criterion. This could limit many cluster munitions entirely and limit exemptions. It supported Austria's comment that a reporting requirement should safeguard the limits of the exemptions.

Sierra Leone welcomed Norway's intention to circulate an explanatory note to clarify the weight criterion. Any consensus reached on Article 2(c) should be informed, and an explanatory note would facilitate this.

Zambia stated that it was opposed to Article 2(c). It was studying the proposal and reserved the right to comment further.

Peru stated that all the criteria set out in paragraph 2(c) should be included in the definition in order to confirm that only munitions not causing unacceptable harm are exempted.

South Africa stated that the African group of States were having ongoing discussions on Article 2(c). The future Convention must be clear, precise and credible. South

Africa was adopting a flexible position in the negotiations, with the goal of meeting the Oslo objectives. The focus should be on the most effective measures in defining the scope of the exemption: it was not necessarily helpful to list all elements. States should consider which criteria were most effective in meeting the Oslo goals and seek to eliminate any ambiguity. A lack of clarity on key concepts would affect the confidence of States in signing up to the new Convention.

The President reminded delegates that the Convention would not be signed in Dublin, but in Oslo in December.

Lebanon stated that it had co-sponsored the deletion of Article 2(c), but this was not a red line for its delegation. Article 2(c) must comply with the highest humanitarian standards, and contain safeguards for the review of exemptions at Review Conferences. States could retain cluster munitions for training and development purposes. It would appreciate similar flexibility from other States on issues such as interoperability.

Democratic Republic of Congo stated that the Friend's paper reconciled the position of many States, but might be improved in some respects. It regretted the determination of some States to establish technical criteria on exemptions. These criteria should not be accepted unless it could be proven that they would ensure no unacceptable harm to civilians.

Sweden supported the use of concrete criteria, including the weight criterion, in Article 2(c) in order to achieve the aims of the Oslo process.

Ghana would prefer that Article 2(c) was not included, but considered that the Friend's text provided a good basis for discussions. The African group of States was considering the elements proposed for inclusion in Article 2(c).

Finland supported Denmark in considering Article 2(c) to be a necessary inclusion in the Convention. The Friend's paper contained important definitional elements but Finland was not convinced that criteria based on numbers and weight should be included, as they fail to take possible future developments in weapons technologies into account. It supported the comments of Slovakia and Spain in this regard.

Japan considered that the inclusion of Article 2(c) would strengthen the Convention. The provisions in sub-paragraphs (c) and (d) on self-destruction and self-deactivation would have to be strengthened.

Guinea stated that it had reservations about Article 2(c) and would liaise further with the African group in this regard.

The **Netherlands** stated that the Convention should have an appeal that is as broad as possible. The text proposed by the President achieved that purpose. It considered that the proposed Article 2(c) would succeed in banning all cluster munitions that cause unacceptable harm. The self-destruction and self-deactivation features must be reliable to be acceptable elements of an exemption.

Australia supported the cumulative approach set out in paragraph (c) of the Friend's text, and endorsed by the International Committee of the Red Cross. The Convention is an instrument of international humanitarian law that is designed to regulate behaviour in war. The notion of what is unacceptable in war may be difficult to agree, but ultimately leads to the greater benefit of all. While weapons might be abolished, targets could not be abolished. States should be mindful of the risk that an overly extensive ban might lead to the development of other weapons causing greater harm to civilians.

Uruguay stated that while it had proposed the deletion of Article 2(c), it was prepared to continue negotiations to achieve a clear definition and an effective Convention. It supported the remarks of Argentina, Mexico and others.

The **United Kingdom** remarked that delegates had a choice between agreeing a robust, effective and inclusive Convention or one which fails to achieve this. It welcomed the constructive debate between delegates on definitions.

Burundi stated that it was open to any international convention of a humanitarian nature which reflected the general will of States.

Senegal stated that Article 2 was important to achieving a strong humanitarian Convention. It was open to compromise on an acceptable solution, and was consulting with the African group of States in this regard. The parameters of the Oslo Declaration should be borne in mind in determining provisions related to the use of cluster munitions.

Nigeria wished to associate itself with Zambia's remarks. While it would like to see Article 2(c) deleted from the text to protect the integrity of the Convention, it was flexible in negotiations on the issue.

Benin stated that the definition should not incorporate criteria which will become obsolete as technology develops.

Lao People's Democratic Republic stated that experts had certain reservations about the criteria invoked in the draft text on Article 2(c). Exemptions which would allow the continued development of cluster munitions were not advisable. It was prepared to await more specific evidence to guarantee that such exempted weapons would not cause unacceptable harm.

Panama stated that it was unhappy with the inclusion of air defence systems in sub-paragraph (a). It was not happy with the explanations provided for sub-paragraphs (c) and (d).

Honduras expressed its support for the deletion of Article 2(c).

Germany stated that the Convention was supposed to achieve a comprehensive prohibition of cluster munitions causing unacceptable harm to civilians. This should be the yardstick for negotiations on Article 2(c). The definition should clearly distinguish cluster munitions that cause unacceptable harm from weapons that do not raise similar concerns.

Jamaica supported the remarks of Lao People’s Democratic Republic that there must be proof on how the exemptions will affect civilians. It fully supported a universal Convention, but was not at all convinced that there are any cluster munitions that cause “acceptable” harm. The Convention should not leave a loophole for the development of more advanced cluster munitions.

Botswana associated itself with the African position as stated by Zambia. It did not see the need for a reference to air defence systems in paragraph (a). It requested further clarification on this point.

Burkina Faso confirmed its commitment to the Oslo Declaration. It supported the view that Article 2(c) should be deleted, but was open to reaching consensus on this point.

Canada stated that the issue with Article 2(c) is what it is that States have agreed in the Oslo process to ban, not the issue of adopting a total or partial ban. It cannot be said that all cluster munitions that exist or might be developed are inherently indiscriminate. It is incumbent on States to monitor the use and results of weapon development. It reminded States of the possibility of amending the Convention by a two-thirds majority. States will have the opportunity in the annual meetings of States Parties and in the Review Conference to adjust to future developments.

The floor was opened to observer delegations.

Iraq expressed its support for the deletion of Article 2(c), on the basis that no weapon is 100% accurate or reliable.

The **International Committee of the Red Cross (ICRC)** stated that it considered that air defence systems should qualify under Article 2(c), without the need for a separate reference in paragraph (a). It considered that the cumulative approach was essential to address the issue effectively. It had reflected on the weight criterion proposed by Norway and could support this proposal. This would provide an additional safeguard preventing the limitation of numbers being compensated for by States by other means. The weight criterion would “future-proof” the Convention.

Regarding the reference in sub-paragraph (b) to “point-target, the ICRC noted that other formulations were under discussion which would be more precise and effects-oriented, and which would not require a further definition. It would like to see the outcome of that discussion before expressing its full support for sub-paragraph (b).

The starting-point of the Convention was international humanitarian law rather than an arms control approach. When specific weapons are controlled under international humanitarian law, it is because the general rules are considered inadequate due to the particular harm inflicted by such weapons. In the context of the Anti-Personnel Landmines Convention, a blanket ban had been supported on the basis of the harm caused by landmines. Submunitions did not fall into the same category as landmines: they were not designed to fail on impact or to target civilians. It was not the inherent nature of this weapon, but its characteristics, that were problematic. Every weapon can be used indiscriminately and no convention can completely preclude all harm to

civilians. It would be wise to include a commitment to review the accuracy of weapons exempted under Article 2(c) as suggested by Canada and require States to report on this matter.

The **Cluster Munitions Coalition** stated that the reality on the field justifies a categorical prohibition. It supported the deletion of Article 2(c) to prevent any weapon being used that could cause unacceptable harm. However, if it were to be included, it must be as clear and precise as possible. It considered that while the work of the Friend of the President was going in the right direction in this regard, the definition should be more effects-oriented. The criteria adopted must be clear, objective and cumulative to ensure that the risks posed by cluster munitions are not repeated. “Future-proofing” the Convention was critical in this regard.

The floor was returned to participating States.

Ambassador MacKay stated that there had been a consistent understanding throughout the Oslo process that the Convention would cover “conventional” weapons. The issue of including air defence systems had arisen informally in consultations and had been included in the Friend’s paper for informal discussion. No opposition had been expressed then to its inclusion. It was possible that air defence systems would be included in paragraph (c) as sharing the same characteristics. Ambassador MacKay agreed with Germany that Article 2(c) should refer to “explosive” sub-munitions. This would comply with the remaining definitions in Article 2 proposed by Lieutenant Colonel Jim Burke.

Regarding sub-paragraphs (c) and (d), the references to electronic self-destruction mechanism and electronic self-deactivating feature accorded with the Article 2 definitions proposed by Lieutenant Colonel Jim Burke. Ambassador MacKay thanked colleagues for their flexibility and engagement in discussing Article 2(c).

The President stated that the discussion in the Committee of the Whole had shown that some supported the deletion of Article 2(c). Others were happy to proceed on the basis of the Friend’s paper, or had proposed amendments or additions to it. Every feasible effort was being made to reach agreement on this text. The President would host informal consultations, including bilateral discussions, this evening in an effort to achieve consensus. Lieutenant Colonel Jim Burke had acted as a Friend of the President in conducting informal consultations on definitions other than “cluster munition” and “cluster munition victim” in Article 2. He had circulated a paper on these definitions that afternoon and was now invited to present it.

Lieutenant Colonel Burke stated that his updated paper took account of further informal consultations which he had held since Friday. The paper was divided into three parts: firstly, definitions in the existing text; secondly, definitions that may be required, and thirdly, issues arising from the headline definition of cluster munition proposed by Ambassador MacKay, namely an approach to the definition of “point-target.”

Regarding the definitions demanded by the existing text of the Convention, five had been agreed in the informal meetings subject to minor changes, for example the insertion of the word “conventional” in line 1. States had been unable to reach

consensus on the definition of “transfer”: the language proposed in the paper now reflected Norway’s proposal and was close to the definition contained in Amended Protocol II to the Convention on Certain Conventional Weapons. It may be difficult to reach consensus on this matter.

Regarding additional definitions that may be required, a definition of “self-neutralisation mechanism” had been included at Slovakia’s request. The definition of “cluster munition area” had been changed to “cluster munition *contaminated* area” following objections in the informal consultations. A definition of “mine” had also been suggested in case required, having regard to its removal from the scope of the Convention in Article 1. There had been no time today to informally address the proposed definition of “dispensers.” There was general agreement on the first suggestions for definitions that may be required: “self-destruction mechanism”; “self-neutralisation mechanism”; “self-deactivating”; “cluster munition contaminated area” and “mine.”

Lieutenant Colonel Burke stated that two approaches had been discussed to the issue of “point target” in the informal consultations. One was a definition of “point target” based on a NATO definition, with the addition of the words “on a single object.” This proposed language reflected a preliminary effort to improve the text and there had been general agreement on this point. The second approach was to incorporate language into sub-paragraph (b) of Article 2(c) which would improve the provision but not alter its substance. The text presented here was that which had commanded the widest support. Lieutenant Colonel Burke would host one more informal meeting at 6pm to provide delegates with a final opportunity to address the issue informally.

The floor was opened to observer delegations.

The **Cluster Munitions Coalition** stated that it was the clear understanding of all States that the definition of “transfer” encompassed the transit of cluster munitions through a State Party’s territory.

The floor was returned to participating States.

Germany stated that it was generally happy with the definitions proposed in the informal paper. It was flexible on whether “point target” should be specifically defined or addressed in Article 2(c) (b).

Article 8

Mr Mabhongo (South Africa, Friend of the President) had circulated an informal paper on Article 8 today. He believed that the text proposed reflected a balance of interests and that States would be willing to accept it. The text presented was concise and offered flexibility to States. The negotiations had been complex and it had taken several hours to reach agreement. He had been informed by all participating States that it met their concerns.

Canada, the **United Kingdom** and **Argentina** expressed their support for the text presented.

The President stated he would forward the text proposed as Presidency Text to the Plenary in all three Conference languages.

Transition period

The President proposed that Germany report on consultations which it had conducted at his request on the provision for a transition period.

Germany stated that it had conducted consultations on transition periods since last Friday with a number of delegations. It had also held an informal meeting that morning. It summarised the main points emerging from these consultations. The fundamental question was whether a transition period should be provided for in the Convention. All delegations present were committed to achieving a ban on cluster munitions and did not wish to undermine Article 1. However, there were differing perspectives on the issue of a transition period, partly as a result of regional backgrounds but mainly reflecting differences between those who possess and those who do not possess cluster munitions.

Opponents of a transition period stated that it risked undermining the humanitarian objectives of the Convention. Advocates of a transition period pointed to the need to have as many States as possible join the Convention from the outset with a commitment to all of its aspects, for example the provisions on victim assistance. These advocates were not contemplating a blanket provision but were mindful that there would be immediate benefits stemming from the entry into force of the Convention. Article 1 must not be qualified. Delegates had also discussed the relationship of any transition period to Article 3 of the Convention.

Germany considered that clear basic differences remained between States on transition periods, but that it would be possible to bridge these differences. Four points had transpired in the informal consultations: firstly, States did not wish to undermine Articles 1 and 2; therefore any provision on transition periods might be best placed elsewhere. Secondly, it was better to speak of “phasing out” rather than a transition period in order to ensure that this period was not in addition to, and should be shorter than, any periods allowed for storage and stockpile destruction under Article 3.

The third point was that restrictive criteria needed to be in place in order to meet humanitarian concerns. These criteria could encompass a reference to concepts of exceptional circumstances, Article 51 of the UN Charter, territorial defence etc. Fourthly, some requirements had been suggested for the characteristics of cluster munitions to be phased out e.g. accuracy, reliability, age, number of sub-munitions. The outcome of Germany’s consultations could provide a basis for the President to pursue this issue further.

The President thanked Germany for its efforts on his behalf and for its full report of the discussions. It was clear that significant differences remained. His team would conduct further bilateral consultations on this issue.

The meeting rose at 6 p.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/12

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF TWELFTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Tuesday, 27 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10.36 am.

The President presented the revised text of the President's Non-Paper on Article 1. No changes were made to paragraph 1. This paragraph was relevant to interoperability and was still subject to an ongoing separate discussion. A new paragraph 2 had been added to address the discrepancy of bomblets dispersed by dispensers affixed to aircraft that are not in fact submunitions as they do not come from a larger munition. Additional definitions had been added as a result of consultations carried out by Lieutenant Colonel Burke on the meaning of "dispenser", "explosive bomblet" and "unexploded explosive munitions" or "unexploded bomblet". The definition of "cluster munition remnants" will be amended to include "unexploded bomblets". Paragraph 3 had been amended in response to an objection to the reference to mines being framed by the Convention on Certain Conventional Weapons. The paragraph now refers to mines and the definition of mine is identical to that of the Anti-Personnel Mine Ban Convention. The President hoped that the proposed changes would command broad support and invited comments on the Non-Paper.

The **United Kingdom** did not see the added value of new paragraph 2 and stated that the inclusion of bomblets and dispensers seemed to confuse the issue. **Spain** agreed with the position of the United Kingdom.

Mali stated that the inclusion of provisions on interoperability was not legitimate.

The President stated that he did not propose to deal with interoperability in this discussion. He would ask members of his own team to carry out consultations with the United Kingdom and with Spain.

The President reported that, regarding Article 6, Canada had been asked to undertake consultations. The finalisation of this Article would have to await the conclusion of work on Article 4, given that paragraph 4 of Article 6 refers to Article 4.

On Article 2 and definitions, a revised text would be circulated to delegates later in the day.

On the Preamble, the President announced that Ambassador Millar would be in a position to circulate a revised text of the Preamble later this morning.

The meeting rose at 10.43 a.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/13

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF THIRTEENTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Tuesday, 27 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 3.20 pm.

The President introduced the issue of interoperability. Ambassador Schraner had held further consultations and had now submitted a draft text of a possible additional article for the Convention. Ambassador Schraner's assessment was that the text represented the language most likely to represent a balance between positions and stood the best chance of commanding general agreement. The text was circulated as a proposal of the Friend of the President on interoperability and it was not proposed to have a discussion on the text at that time.

Article 6

The President announced that following consultations carried out by Canada, a large measure of agreement had been reached. **Canada** then reported on the progress of consultations. The majority of consultations had focused on paragraph 9 *bis*, however other paragraphs were also considered, including a modified proposal from Austria for paragraph 7. The Austrian proposal read as follows:

“Each State Party in a position to do so shall provide assistance for the implementation of obligations contained in Article 5 to adequately provide age and gender sensitive assistance, including medical care, rehabilitation and psychological support, as well as for social and economic inclusion of cluster munitions victims.”

On paragraph 9 *bis*, Canada had not been able to speak to all delegations but canvassed a wide cross-section of delegates. Canada produced a compromise text as follows:

“Each State Party that seeks and receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation of the Convention, including facilitation of the entry of personnel, materiel and equipment, in a manner consistent with national laws and regulations and international best practices.”

The President welcomed the agreement on paragraph 9 *bis* as well as the improvements made to Article 7.

Switzerland reiterated the importance of Article 6 for Switzerland. Based on their experience and long collaboration, Switzerland were in favour of the principle mentioned and formulated in general terms by a reference to national laws and best international practice. Switzerland also supported the revised Austrian proposal for paragraph 7.

Indonesia expressed its difficulties with additional phrases added to the last part of paragraph 9 *bis*. In particular, Indonesia requested further clarification on the term “international best practices” and whether they would deal with the entry of materiel and personnel. If such areas were considered to be included in the reference to international best practices, Indonesia could only support the text if it ended after the words national laws and regulations.

Cambodia agreed with Indonesia and asked for further clarification on the explanation of “international best practices”.

Cameroon supported the efforts of Canada on paragraph 9 *bis*.

Canada clarified what was meant by the term “international best practices”. It had been suggested by another delegation and it was clear that laws would take predominance over practices. National laws would be paramount but should be informed by international best practices. The phrase implied no legal requirement to change national laws. However, if national laws are restrictive or obstructive, this will inhibit the ability of donor countries to contribute and of affected countries to receive assistance.

Cambodia expressed satisfied with the explanation of Canada.

The **Philippines** expressed support for the statement of Indonesia and asked whether Article 11 was not sufficient to meet the concerns of those who want expedited procedures.

Germany considered that recent experience with national disasters and the requirement to provide expeditious support should have provided a different response. Though grateful to Canadian colleagues for efforts to find a solution acceptable to all, Germany failed to understand why the text of paragraph 9 *bis* as proposed had been whittled down. Paragraph 11 was much too weak. International best practices were a natural point of orientation and would be seen as a clear signal of cooperation. Germany was not happy with text, though was willing to go along with it. There should be no problem with the text as it stands.

Serbia expressed its full support for the Austrian and Canadian amendments.

Australia, as a donor country, supported the comments of Germany.

Albania also shared the concerns of Germany that any comments for further weakening of paragraph 9 *bis* would be insupportable. Albania also raised a question on the intention behind the additional text proposed by Austria on age and gender assistance. If the provision was meant to be read as a limitation to age, this would not

be accepted. If it were meant to include all kinds of ages it would be supported as it is. Albania requested an explanation from Austria.

The **Netherlands** did not like the Canadian compromise but could accept it. Along with Germany and Albania the Netherlands failed to see why clauses on the moral obligation to facilitate assistance were objectionable.

Lao People's Democratic Republic had expressed concerns with the previous version. The new version responded well to concerns and therefore could be accepted. Lao People's Democratic Republic had received assistance for many years and not had any problems, therefore it might be a good idea to have a clarification of what is meant by international best practices.

Indonesia thanked Canada for the clarification. Cambodia had no experience of difficulties in receiving personnel and was not convinced that the reference to "international best practices" was necessary. What does international best practice in granting visas mean, for example, when every country has their own national law on visas.

Canada understood concern over the term "international best practices" that was somewhat vague and perhaps implied that an international code of practice existed, which it does not. Canada gave an example from its experience of trying to contribute a piece of equipment (a flail for mine clearing action) in an affected country and being informed that Canada would have to pay import duties. The emphasis should be on facilitation and countries receiving assistance should look around and see what others do to facilitate assistance on all aspects.

The President reminded delegates that the purpose was to try to mitigate the effect of use of cluster munitions. The President noted Canada's argument that national law takes precedence over international practices.

Germany agreed with Canada that no goods or personnel required should be unduly prevented from doing their job.

South Africa stated that they had been happy to go along with text as proposed by Canada, but were now worried by the explanations of Canada. South Africa would disagree with any implication that States would have to change national laws and regulations. South Africa suggested the addition of extra words after national laws and regulations as follows: "and where necessary consider international best practices".

Canada requested time to reflect on this and asked whether this would allay Indonesian concerns.

Indonesia thanked South Africa for the proposal and agreed to undergo consultations with Canada as suggested by the President.

Article 2

The President updated the Committee on the progress of the text of Article 2. Ambassador Mackay had prepared a revised text on the definition of a "cluster

munition”. Discussion of all other definitions except for “cluster munition” and “cluster munition victim” were the subject of a paper prepared after consultations carried out by Lieutenant Colonel Burke which would be circulated. Ambassador Mackay had forwarded a text he believed to represent the language most likely to represent balance and stand the best chance of agreement. Bilateral consultations would be carried out on the revised text.

Preamble

The President announced that after initial discussion in the Committee of the Whole, consultations had been carried out by Ambassador Millar, and a proposed new text for the Preamble had been circulated.

Ambassador Millar presented the proposed new text. The first five paragraphs were a restructuring of the previous text for clarity, drawing on the paper of the International Committee of the Red Cross and the United Kingdom. The International Federation of the Red Cross and cluster munition affected States had also provided input on the text. The next group of paragraphs reflected the outcome of separate informal meetings on victim assistance and had not been discussed. Paragraph 11 was a new paragraph directly reflecting language in Additional Protocol I of the Geneva Conventions relating to cases not covered by the Conventions and other international agreements. The following paragraph was also new and related to the activities of non-state actors, related to discussions in the Committee of the Whole. Article 15 refers to United Nations Security Council Resolutions 1325 and 1612. The final new paragraph 19 related to universalisation and full implementation.

Germany raised a question on the choice of language between “bear the brunt of” over “continue to suffer most” as most soldiers involved in armed conflict also suffer.

Jamaica expressed a preference for the language “continue to suffer most” over “bear the brunt”. On the inclusion of a special reference to women and children, Jamaica noted that on the basis of research, men are more affected and therefore suggested to refer to just civilians or to also include men on the list.

Canada was very pleased with new inclusions. It echoed the comments of Jamaica and Germany, that the language “suffer the most” was better in the first line.

The **Netherlands** was satisfied with the text and had one minor comment, which might also solve another problem on the issue of additional articles governing relationship with other treaties. The Netherlands suggested a minor amendment to last preambular paragraph (paragraph 20) on the relationship between this treaty and the principle of international humanitarian law that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited. The Netherlands proposed to broaden this paragraph to include more principles of international humanitarian law, changing first line to read “basing themselves upon already existing rules and norms of international humanitarian law, including the principle (delete international humanitarian law) that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited....”

The **Philippines** in CCM/9 had also raised question of the relationship with other conventions. The Philippines had no specific wording to provide but would support any wording that strengthened the paragraph in that direction.

Mexico welcomed the comment of the Netherlands, but proposed to table an amendment to it. Mexico proposed the use of the wording “particularly the principle” instead of “including the principle”.

Cambodia was very satisfied with the text and would not oppose small changes to improve wording.

Burundi made a wording suggestion, that the language “determined to put an end definitively” be used instead of saying “determined to put an end for all time”.

Austria stated that it had no problem with proposal by the Netherlands, except for the reference “already existing”. The reference seemed redundant and Austria preferred that those two words be dropped.

Australia provided clarification on the origin of the language “bear the brunt of armed conflict”. This language was a direct quote from Red Cross Conference last November that everyone had agreed upon. On paragraph 3 and the issue of the special status of women, the proposal had come at the suggestion of cluster munition affected States. Australia agreed to conduct further consultations on the Preamble.

The **Netherlands** stated that the amendments by Mexico and Austria to their proposed amendment were welcome and that no further consultation on their behalf was necessary.

The President thanked delegates for their contributions and then suspended the Committee of Whole. Delegates were asked to remain available for work during the evening.

The President said that he would spend the remainder of the day conducting bilateral and other consultations with delegations and then intended to circulate a composite text this evening.

The meeting rose at 4.17 p.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/CW/SR/14

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

**SUMMARY RECORD OF FOURTEENTH SESSION OF THE COMMITTEE OF THE
WHOLE**

Held at Croke Park, Dublin on Tuesday, 27 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 9 p.m.

The President stated that it had been intended to give delegates a complete text of the draft Convention that evening. He regretted that this was now impossible. Consultations had been continuing all day and had been helpful and constructive. However, there were some outstanding issues requiring further consultation. The President stated that the complete draft text of the Convention would be presented to the Committee of Whole on Wednesday, 28 May at 10am.

The meeting rose at 9.05 p.m.

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/15

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF FIFTEENTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Wednesday, 28 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 10.22 am.

The President introduced a Presidency Paper containing a consolidated draft of a Convention text. The text of about two-thirds of the Articles was identical to the Presidency Texts already forwarded to the Plenary following discussion in the Committee of the Whole. The text of the other Articles reflected extensive discussion in the Committee of the Whole, in some cases consultations undertaken by Friends of the President, and consultations undertaken by the President or members of his team. In the assessment of the President the text represented the best balance of interests and compromise consistent with the Oslo Declaration. The President outlined some of the main features of the text, including the definition of cluster munitions and the provisions on relations with States not parties to the Convention. He stated that the headline definition of a cluster munition in this text would lead to the prohibition of all cluster munitions that cause unacceptable harm to civilians. It would involve the removal of all cluster munitions from national stocks for a large number of states represented here. On the provision on relations with states not parties to this Convention, the President stated that it would be too much for some but not enough for others.

The President then went through the text, article by article, highlighting any changes that had been made.

Preamble

The Preamble had been discussed in the Committee of the Whole on Monday 26 May, and was the subject of consultations undertaken by Ambassador Millar of Australia as Friend of the President on 26 and 27 May. The text of the Preamble as included in the draft circulated this morning commanded general agreement in Ambassador Millar's consultations.

Article 1

The President stated that the version included in the draft being circulated made two changes mentioned in the Committee of the Whole on the previous day. First, it

altered the manner in which mines are excluded from the scope of the Convention. Secondly, it addressed the anomaly relating to bomblets released from dispensers attached to aircraft. These look and behave like submunitions but they are not, since they do not come from a larger munition. Both informal and bilateral consultations had shown that it was considered important to address this issue at this stage, in order to avoid the Convention's obligations being circumvented by the use of such systems.

Article 2

The President stated that this Article had been the focus of extensive discussion both in the Committee of the Whole and in informal consultations conducted by Friend of the President Ambassador MacKay of New Zealand, assisted by Lieutenant Colonel Burke of the Irish delegation. The version contained in the draft circulated reflected the outcome of their consultations, as well as of those undertaken by the President and by his delegation. The main definition, that of a cluster munition, already quite demanding, had been added to by the inclusion of criteria regarding weight, which the President's consultations showed to enjoy broad support.

Article 3

The President stated that the presented text in the draft was the product of the consultations carried out by Ambassador Kongstad edited to ensure consistency of form and terminology with related matters in the text.

Article 4

The President stated that that Article 4 had been the subject of open informal meetings and bilateral consultations conducted by Lieutenant Colonel Burke. While consensus had not been achieved among all delegations, in the view of the Presidency the text in the draft represented the best compromise available to accommodate the concerns of all interested delegations.

Article 5

The President stated that the text presented in the draft was the same as that contained in Presidency Text, CCM/PT/12.

Article 6

The President stated that the text of Article 6 had been discussed in the Committee of the Whole on Monday 26 May and Tuesday 27 May, and that Canada had undertaken consultations on his behalf in relation to one outstanding matter. Mr. Earl Turcotte of Canada had reported that his consultations had resulted in language that was acceptable to all of the delegations that had concerns on this matter, and this language was reflected in the current draft.

Article 7

The President stated that the wording of this Article had been adjusted to take account of the substantive provisions in Articles 3, 4, 5 and 6, and also to take account of amendments proposed during discussions in the Committee of the Whole, on which consultations had subsequently been carried out.

Article 8

The President informed the Committee that Ambassador Mabhongo of South Africa had reported agreement on the text of this Article to the Committee of the Whole on Monday 26 May.

Article 9

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/8

Article 10

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/9

Article 11

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/1

Article 12

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/2.

Article 13

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/3, which including amendments suggested by the UN Office of Legal Affairs and an amendment proposed by the Philippines.

Article 14

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/10.

Article 15

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/4.

Article 16

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/5.

Article 17

The President stated that discussions in the Committee of the Whole had revealed differing views on the number of ratifications that should be required in order for the Convention to enter into force. Almost all delegations that spoke favored requiring either 20 or 40 ratifications. Attempting to reconcile these conflicting positions, the figure of 30 had been included in the current draft.

Article 18

The President stated that the text of Article 18, and a slight amendment to it proposed by the UN Office of Legal Affairs, had been discussed in the Committee of the Whole the previous week, and no particular difficulties had been identified. The text of the Article as contained in the draft circulated reflected this amendment.

Article 19

The President stated that the discussion of this Article in the Committee of the Whole was inconclusive, with some delegations taking the view that they were not in a position to accept that the articles of the Convention shall not be subject to reservations in advance of agreement being reached on all articles. Confident that agreement on all articles was not far away, the President suggested that the text of this Article follow the text as in the draft Convention.

Article 20

The President stated that the text in the draft was the same as that contained in Presidency Text, CCM/PT/11

Article 21

The President stated that this is a new article intended to address the concerns of a considerable number of participating States, from all regions, regarding their ability to continue to participate in military cooperation and operations, including multi-national peace support operations, with States not party to the Convention. The text of the article was based closely, with only one small addition, on the paper circulated yesterday afternoon by the Friend of the President, Ambassador Schraner of Switzerland, which was regarded by almost all delegations as a good basis for work.

Article 22

The President stated that the text in the draft was the same as that contained in Presidency Text of former Article 21, Presidency Text, CCM/PT/6.

Article 23

The President stated that the text in the draft was the same as that contained in Presidency Text of former Article 22, Presidency Text, CCM/PT/7.

In summary, the President described the draft text as an ambitious attempt to address the humanitarian concerns associated with the use of cluster munitions, in line with the commitment made in the Oslo Declaration. The President stated that most elements of the paper would be familiar to delegates from discussions in the Committee of the Whole. A restrictive effects-based definition had been used which would prohibit the vast majority of submunition-based weapons systems existing in the world today, and all of those which have been used. The draft contained very strong provisions on victim assistance, which advance international law in this regard, as well as strong provisions on international cooperation and assistance, and the clearance and disposal of cluster munition remnants. No provision had been made for a transition period.

The President asked all delegations to consider the text carefully and to reflect on how far all in the room had come in the past eighteen months. The next Session of the Committee of the Whole was convened for 3 p.m. to hear delegates' reactions to the Presidency Paper.

The meeting rose at 10.40 a.m.

**DIPLOMATIC CONFERENCE FOR
THE ADOPTION OF A CONVENTION
ON CLUSTER MUNITIONS**

CCM/CW/SR/16

18 June 2008
Original: ENGLISH

DUBLIN 19 – 30 MAY 2008

SUMMARY RECORD OF SIXTEENTH SESSION OF THE COMMITTEE OF THE WHOLE

Held at Croke Park, Dublin on Wednesday, 28 May 2008

Chair: President O'CEALLAIGH

The meeting was called to order at 4.30 p.m.

The President opened the meeting by giving the floor to the Deputy Minister for Foreign Affairs of Zambia, Professor Phiri.

Deputy Minister for Foreign Affairs Phiri, Zambia, expressed his country's gratitude for the Irish Government's efforts to achieve agreement on a convention to ban cluster munitions causing unacceptable harm. He thanked the African delegations for their co-operation with Zambia in the African group. It had been clear to Zambia from the outset of the Oslo Process that a strong convention was required in order to enhance human security. The outcome of the negotiations did not involve winners and losers, but reflected a mutual understanding between States of the need to address humanitarian concerns. The issue was very dear to the hearts of Africans, who had themselves been the victims of weaponry. Zambia appreciated the President's efforts to ensure a convention which was strong in all critical areas.

The Deputy Minister stated that he expected colleagues to assist in achieving a text that ensures civilians are safeguarded. The draft text represented the best effort to achieve true consensus.

Presidency Paper CCM/PT/14

The President stated that all delegations had now an opportunity to consider the Presidency Paper (CCM/PT/14) setting out the draft text of a Convention, which had been circulated that morning. He reminded delegates that all participating states had endorsed the Oslo and Wellington Declarations and that they had committed themselves to conclude a Convention this year that will (i) prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and (ii) establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities,

clearance of contaminated areas, risk education and destruction of stockpiles of prohibited cluster munitions.

He said that the draft text before the Conference this afternoon represents his assessment at this point of where the best balance of interests and compromise – consistent with the Oslo Declaration – now lies. It is a package of elements that entails concession for all sides but remains nevertheless an extremely ambitious Convention text that meets the objectives delegations set themselves in Oslo in February last year.

The President said that the headline definition of a “cluster munition” will lead to the prohibition of all cluster munitions that cause unacceptable harm to civilians and that it prohibits all cluster munitions ever used in armed conflict. For many states represented this will involve the removal of all cluster munitions from national stocks.

He said that the provision on relations with states not party to the Convention will exceed what some would have wished to see but is short of what many have said they need. There will be no transition period for use of cluster munitions.

He said that the draft sets new standards for victim assistance, clearance of contaminated areas and stockpile destruction and that there is a strong package on international co-operation and assistance. In his view the text meets the objectives set in Oslo in a balanced but ambitious and effective manner. It will have a direct humanitarian impact and will mitigate the effects of armed conflict on civilians both during and after hostilities.

In opening discussion the President asked delegations to bear in mind how far all have come in this process and how close all now are to successfully completing it. Once a new Convention is adopted and the necessary framework of co-operation and assistance is established states can begin to ensure that cluster munitions are no longer used in armed conflict and that the effects of their use on civilians will be prevented or greatly mitigated.

He did not propose that to have an article by article debate of the Presidency Paper. As a Presidency Paper it is not open to amendment as such anyway. He needed to know if delegations have difficulties. However the text represents a package of compromises for all and he accepted that no delegation will be completely satisfied with it. He asserted nevertheless that it is a very strong instrument that will significantly develop international humanitarian law in this area and will meet all the objectives set in Oslo. With that in mind he hoped that delegations will find the text broadly acceptable and will be able to support it. He concluded by saying that he would like that at the end of discussion this evening delegations can agree to adopt this text. That would pave the way for its formal adoption on Friday morning.

Zambia, speaking on behalf of the African group, thanked the President for his efforts to conclude the agreement. While it did not agree with the language of certain Articles, it was prepared to accept the agreement in a spirit of compromise as a total package. It would have preferred a stronger Convention but there was a give and take element involved in the negotiations. It reserved the right to consider its position in the event of any further amendments to the text.

New Zealand complimented the President on his skilful efforts during the Conference. It considered the draft Convention to be a strong, balanced text that was ground-breaking in many respects. It met the humanitarian objectives of the Oslo Process. New Zealand considered that the risk involved in any attempts to re-open the text should be avoided. It particularly welcomed the provision on victim assistance, which represented a significant advance in international humanitarian law. It also appreciated the President's fortitude in resisting attempts to include a transition period in the document. The overall text was one which New Zealand wished to support.

Canada stated that the draft Convention was high-quality document which struck the right balance between the interests of various States and the interests of civil society. It was willing to provisionally accept the Convention.

Mexico, speaking on behalf of the Latin American and Caribbean group, thanked the President for his hard work and efforts. The text had many positive elements, for example the provisions on disarmament, victim assistance, international co-operation, the absence of transition periods, and the ban on any reservations to its provisions. It provided a strong basis for achieving the objectives of the Oslo Declaration.

South Africa thanked the President for guiding the negotiations, and concurred with his remarks that the text was ambitious and far-reaching. It moved safely in the direction of the Oslo objectives, and was a balanced text emerging from intense negotiations which had involved many different viewpoints.

Switzerland congratulated the President on having achieved the best possible compromise in the draft text. The outcome would end the use of cluster munitions and ensure that victims and their families were provided with assistance and support. It would also provide for international co-operation in clearance and destruction. It considered that the text was balanced and ambitious, and met the objectives of the Oslo Process. It should be possible to achieve the universal application of the Convention.

France congratulated the President and commended the spirit of compromise which had informed the negotiations. It was an ambitious and balanced text, which asked for sacrifices from all delegations in order to meet humanitarian objectives. France was willing to recommend the formal approval of the draft Convention as presented.

The **Philippines** expressed its appreciation to the President, and commended the text as a balanced package which should not be re-opened in whole or in part. It would respond to the needs of the time in ensuring international co-operation and assistance.

Indonesia stated that the text represented the best compromise that could be reached. It accommodated Indonesia's concerns and Indonesia could accept it in its entirety.

The President drew delegates' attention to a minor correction in Article 4(4) (a) of the text circulated, where "the former State Party is encouraged to" should read "the former State Party is strongly encouraged to".

Bahrain congratulated the President on the work done to reach consensus, despite some divergence of views among States in the negotiations. The ban on cluster munitions should be seen as a new chapter in international humanitarian law, accompanying the Landmines Convention. All cluster munitions used to date had resulted in unacceptable harm. The Convention would provide an international instrument regulating the stockpiling, development and destruction of these weapons. Bahrain supported the draft Convention as a whole.

Arabic-speaking delegations would have greatly benefited from having Arabic as a working language of the Conference. Bahrain suggested that the draft text should be forwarded to the UN Secretary-General requesting its circulation as an official document of the UN General Assembly's forthcoming session. This would ensure its accurate translation into Arabic and other languages, allowing governments to consider the text and recommend the Convention for adoption and ratification.

Austria welcomed the exceptional provisions in the treaty on victim assistance and international co-operation, which would set new standards in international humanitarian law. While Austria would have preferred a stronger norm for the prohibition of cluster munitions, it was willing to accept the draft text as a strong package. Article 2 could be considered again at Review Conferences and Meetings of States Parties to ensure that the approach adopted in the text was adequately meeting humanitarian concerns. It did not believe that the language in Article 21 was the best that could be achieved, but respected the President's assessment on this.

Fiji thanked the President for his efforts. The text represented a compromise package and a solid contribution to international humanitarian law. It called on all delegates to agree to the text.

Norway stated that the Presidency Paper represented an adequate and good reflection of the negotiations. The text was the best possible response, and its provisions on victim assistance achieved a core purpose of the Oslo Process. Norway was prepared to accept the text presented.

Australia stated that the text was the strongest possible text capable of achieving the broadest support. It commended all delegates for their constructive approach to the negotiations.

Italy expressed its full approval of the text, and stated its appreciation for the fair and honest manner in which negotiations had been conducted.

Morocco agreed with the comments made by Zambia. It trusted that the text presented could achieve consensus. It represented a significant milestone in international humanitarian law, though Morocco hoped that a complete prohibition of cluster munitions could be achieved in the Review Conferences.

The **United Kingdom** stated that while the UK was not a core group member, it had been one of the original signatories of the Oslo Declaration. The text presented represented the best possible consensus achieved after arduous discussions, balancing humanitarian and security concerns. The UK took the opportunity to draw delegates' attention to the statement made earlier that day by the Prime Minister in which he had

announced the withdrawal from service of all UK cluster munitions with immediate effect. This clearly demonstrated the importance the UK Government attached to a successful outcome to the conference and a strong Convention.

Tanzania congratulated the President and aligned itself with the remarks of Zambia on behalf of the African group. The text was an ambitious endeavour, which had remained focused on the pledges contained in the Oslo Declaration. While hopeful that the Convention could be strengthened in future, Tanzania was willing to support the text presented.

Japan stated that the text represented the best possible balance and was now being considered in Tokyo.

Ghana expressed its support for the text presented, and joined the consensus in recommending the Convention to its Government for signature.

Botswana agreed that the text was a balanced effort and called for restraint in re-opening its provisions.

Jamaica congratulated the President for his guidance and determination in the negotiations. While it maintained its stance that Article 2(2) (c) should not have been included, Jamaica was willing to support it on the basis that the text had been achieved in good faith and was open to review in the future.

Samoa expressed its warm compliments to the President and welcomed the ambitious text that had been achieved. Its provisions on victim assistance, verification and international co-operation would be central to the development of international humanitarian law. It was willing to accept the current draft as it stood.

Belgium stated that the Convention contained some innovative provisions, and was in line with the Belgian national law banning cluster munitions. It would be capable of wide endorsement by States, and provided for a result-oriented process of implementation, destruction of cluster munitions, and international co-operation. Belgium was particularly pleased with the victim assistance provision and with the effective preventive elements in the Convention. Belgium was willing to fully subscribe to the text presented.

Croatia thanked the President and expressed its willingness to support the text in its entirety.

The **Cook Islands** commended the wisdom of the President in putting forward this text and stated that it was willing to accept the draft Convention in its entirety.

Denmark thanked the President for his success in reconciling conflicting views, and expressed its support for the draft text presented.

Mauritania stated that the draft Convention lacked some elements which its delegation would have liked to see included, but it was willing to join with the African group in endorsing the draft Convention.

Belize expressed its thanks to the President, and stated that the text presented represented a significant advance from the initial draft. It would forward the text to its capital with the strongest recommendation for its adoption and endorsement.

Germany thanked the President and stated that the text represented the best possible compromise available. It should be submitted to the Plenary for adoption.

Guinea echoed the comments of Zambia and stated that a balanced package had been achieved which marked significant progress in international law. Its delegation would be unstinting in its efforts to recommend its adoption and signature.

Guinea-Bissau stated that it fully supported Zambia's remarks and regarded the text as the best possible compromise available.

Burundi expressed its gratitude to the President and stated that the draft text was a balanced Convention which could achieve broad consensus.

The **Czech Republic** stated that the text was the best possible compromise, meeting the objectives of the Oslo Process.

Albania indicated full support of the draft.

Spain had sought as broad a ban of cluster munitions as possible and stated that any exemptions to the prohibition must be based on not creating unacceptable harm. The proposal had a sufficiently broad ban and the draft text was an excellent document. Not all arguments for exemptions are inspired by humanitarian reasons and the exemptions created could be improved upon. Spain would be pleased if consensus could be achieved on this text and supported a broad prohibition.

Iceland welcomed the draft text and recalled the rules of international humanitarian law, the law of treaties and the law of state responsibility which will guide future interpretation and application of the Convention.

The **Holy See** described the draft text as a strong, credible and realistic instrument, noting that the door remained open for improvement in the form of future protocols. The text as presented was acceptable to move forward and was the best option to prevent more future victims.

Lesotho stated that draft text was a balanced and groundbreaking framework. Lesotho would have desired a differently worded text in some articles, but in the spirit of compromise was ready to support the draft in its entirety.

Bosnia and Herzegovina indicated full support of the draft text as tabled.

Vanuatu expressed satisfaction with the draft Convention text, as a friend of the affected countries and on humanitarian grounds.

Nigeria associated itself with statement of Zambia. The text contained something for everyone and Nigeria would recommend the adoption of the text to its Government.

Mozambique associated itself with the statement of Zambia. Mozambique had a will to contribute to a strong Convention and believed the balance achieved represented the best possible compromise. Mozambique welcomed the current draft and intended to recommend approval by its Government

Madagascar welcomed the decision of France and the United Kingdom to withdraw cluster munitions from active service. Determined to make progress, Madagascar described the draft Convention as a detailed and balanced text which it was willing to recommend for endorsement by its Government.

Lao People's Democratic Republic was pleased with the text, particularly Article 4 on clearance and destruction and Article 5 on victim assistance. The presence of cluster munitions victims at the Conference and the intention to give tangible proof of suffering caused by cluster munitions was welcomed.

Malaysia stated that the text reflected the maximum compromise that could be achieved at this hour. The text was a milestone in the development of international humanitarian law and Malaysia would give the draft a thorough review and the serious consideration that it deserved.

Senegal expressed a wish that the text be adopted unanimously; the Senegalese delegation will certainly do so. Senegal endorsed the Zambian statement and hoped that the text would be signed by a large number of countries, and be implemented as it stood.

Luxembourg supported the text.

Uganda supported the Zambian statement and was satisfied with the draft text. It would recommend adoption by its Government.

Lithuania would have liked to have seen a stronger text but stated that the package prepared was a great achievement and that States should work towards quick entry into force.

Malawi supported the statement of Zambia and saluted the work of the Cluster Munition Coalition. Malawi described the draft as the perfect balance to protect civilians and stated that it had instructions to accept the draft Convention as is.

Sudan associated itself with the statement of Zambia. Sudan was ready to follow consensus and accept the text as is.

Malta described the text as a small but significant step in progress towards disarmament. Malta was impressed by the strengths of the Convention, would support the draft Convention as presented and would work towards its universal adoption.

Sao Tome et Principe described the text as robust, ambitious and balanced. Sao Tome et Principe endorsed the text and would recommend its adoption to its Government.

Niger endorsed the statement of Zambia, recalling its opening position of a Convention without exclusion or delay. Niger approved of the document and would recommend adoption to government.

Burkina Faso endorsed the statement of Zambia. The Conference had achieved an excellent document, which Burkina Faso supported in its entirety and would recommend for adoption by its Government.

Moldova indicated its full support of the draft Convention.

Sierra Leone agreed with Zambia and supported all that had been said in furthering arrangements for adoption. Sierra Leone stated its intention to adopt the Convention as it is.

Sweden described the text as the best possible compromise resulting from the negotiations. Sweden was ready to support a decision to accept the draft Convention unchanged for adoption.

Mali associated itself with the statement of Zambia and approved without reservation the draft Convention as it is.

Côte d'Ivoire regretted that ideas of a complete and utter ban regardless of the type of cluster munition and an end to any complicity between State Parties and non-signing third parties had not been fully incorporated into the draft Convention. However, as the work done was the fruit of consensus, Côte d'Ivoire would give full support to the spirit of the draft.

Serbia agreed with Austria that the humanitarian provisions of the draft Convention were exceptional. Serbia supported the draft text as is and would recommend its adoption

Honduras expressed a difficulty with Article 2(c) and on the responsibilities of countries that produce cluster munitions. Harm done must be compensated, and the draft text does not condemn manufacturing countries for what they have done.

Togo associated itself with the statement of Zambia and would make all efforts necessary to recommend the text to its authorities.

Benin stated that the draft Convention had struck an excellent balance of interests and was it pleased that the draft does not have any possibilities of reservations. Benin particularly welcomed the provisions on assistance to victims and stated that the Conference could be proud of its achievements.

Kenya associated itself with the statement of Zambia. The contribution of all delegations to the text was commended. Kenya welcomed the draft Convention as a balanced compromise on all concerns and endorsed the draft in its entirety.

The **Democratic Republic of the Congo** stated that an important legal instrument had been produced despite imperfections. It would be a constraint on manufacturing countries and would be possible to look victims in the eye. The Democratic Republic

of the Congo associated itself with the statement of Zambia and favoured the text as it had been submitted. The delegation was ready to adopt the text as it had been presented.

The floor was opened to observer delegations.

The **International Committee of the Red Cross** recognised that important concessions had been made by all States. Overall, the ICRC was pleased with current draft, which would lead to the stigmatisation of cluster munitions and have an impact beyond those signing the Convention. The ICRC welcomed the comprehensive definition of cluster munitions, the absence of a transition period, groundbreaking provisions on victim assistance and the broad definition of victims. The provisions on the relationship with States not party demonstrated a strong commitment to ending the use of cluster munitions by all States. The ICRC encouraged States to make clear in their statements upon adoption that destruction obligations also apply to bomblets from dispensers. The adoption of the draft text by all states was encouraged.

The **Cluster Munition Coalition** stated that the draft Convention outcome far exceeded the expectations of nearly everyone. The prohibition contained therein was more comprehensive than that of the Mine Ban Treaty: not just some cluster munitions but all were prohibited; no distinction was made between good and bad cluster munitions. The exclusion in Article 2(c) applied to munitions that do not have the same effects as cluster munitions, that is, that do not have wide area and excessive unexploded ordnance effects. The CMC noted that no exceptions which would have weakened the Convention and no transition period had been included. The CMC welcomed the excellent provisions on victim assistance, clearance, transparency and cooperation, which represented an improvement on the Mine Ban Treaty. Though the CMC would have liked to have seen further improvement, they believed that the Convention might not have gotten better, but worse, if opened and respected that this was not a proper path to take. Article 21 was the only stain on the Convention. The CMC was deeply disappointed with this provision as it was not clear that intentional assistance was banned. The CMC called on all States to clarify that Article 21 does not allow intentional assistance in prohibited acts, foreign stockpiling or acts that undermine fundamental obligations of the Convention in any way. The CMC also welcomed the recognition by States of the role of the CMC and civil society in the drafting of the Convention.

Vietnam stated that it might have wished for stronger text, as a State with experience of the effects of cluster munitions. One cannot have good and bad cluster munitions. The Convention puts burdens on suffering countries not on users. Vietnam needs and encouraged international donors to help it to deal with the consequences of cluster munition use.

Thailand described the draft Convention as well balanced and welcomed its adoption.

The **International Federation of Red Cross and Red Crescent Societies** welcomed the draft text. Articles 1 and 2 in particular would add to increasing stigmatisation of cluster munitions. The draft Convention was not perfect but was a reasoned and balanced compromise which enhances international humanitarian law. Article 5

serves as a new benchmark in the area. The absence of a transition period and the strong in-built mechanism facilitating review and amendment were also welcomed.

The floor was returned to Participating States.

The **Netherlands** was not entirely happy with the draft text but stated that the unhappiness had been equitably distributed. The Netherlands joined the consensus that the text be forwarded to the Plenary for adoption. It hoped that it would persuade countries present as observers to move and others to sign up to the Convention in due course.

Ireland also joined the consensus in support of the draft text.

The President thanked all delegations for their constructive approach and recognised that all had made concessions. In view of the positive reactions to his draft text, and in the absence of objections, he proposed to adjourn the Committee of the Whole and immediately to convene the Plenary. He would then propose that the Plenary agree to adopt on Friday morning the draft Convention set out in the Presidency Paper together with whatever technical and editorial modifications were necessary to ensure consistency of terminology throughout the text.

The Committee of the Whole was adjourned at 7.55 p.m.

