

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 may be 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 am 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 Mweernba 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 prepalation 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 1p.m.