

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/CW/SR/5

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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.