

STATEMENT BY AMBASSADOR JAYANT PRASAD, HEAD OF INDIAN DELEGATION, AT THE THIRD REVIEW CONFERENCE OF THE STATES PARTIES TO THE CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS, GENEVA, 7 NOVEMBER, 2006

Mr. President,

We are most happy to join other delegations in congratulating you on your assumption of the Presidency of the 3rd CCW Review Conference. We are confident that the Conference will have a successful outcome under your leadership, of which we have had ample evidence in various disarmament forums. We would also like to felicitate other members of the Bureau on their election.

India has shouldered responsibilities entrusted to it to nurture the CCW processes, including its Presidency in 2002-2003, when Protocol V on Explosive Remnants of War was negotiated and concluded, and later, the coordination of the Working Group on ERW. In this context, I am grateful to the Non-aligned Group and all the States Parties for nominating and endorsing me as chair of the Drafting Committee of this Conference.

The CCW Convention embodies the principle that the right of the parties to an armed conflict to choose the methods or means of warfare is not unlimited. It prohibits the employment, in armed conflicts, of weapons, projectiles and materials and methods of warfare of a nature that cause superfluous injury or unnecessary suffering. The Convention and its Annexed Protocols, while stipulating measures to mitigate humanitarian concerns arising from the use of specific weapons and weapon systems, also take into account their military necessity and strike a balance between the two. The Convention has evolved and demonstrated its relevance through the successive adoption of five Protocols addressing humanitarian concerns arising from the use of specific weapons and munitions. The entry into force of the amendment to Article I of the Convention has extended the scope of application of the Convention both to external and internal conflicts.

India is wholly committed to the CCW Convention and the humanitarian principles that it embodies. We have ratified all five Protocols annexed to it, as also the amendment to Article I of the Convention. We have taken the necessary steps to fully implement our obligations under Amended Protocol II. We are equally committed to taking all requisite measures to implement other protocols, including Protocol V on ERW.

Today, the CCW Convention has 100 adherents. It is of utmost importance that the States that are not party to it are encouraged to join the Convention and the Protocols annexed to it. India supports the adoption of the proposed Plan of Action to promote universality of the CCW.

Since participation by States Parties in CCW-related meetings demonstrates their commitment to the Convention, those States Parties that are unable to do so due to financial constraints should be provided requisite assistance. The Review Conference will have before it a draft decision on the establishment of sponsorship programme, which we support.

India believes that States Parties are primarily responsible for the full and effective implementation of their obligations under the Convention and the Protocols to which they are bound. We are satisfied that there have been no instances of non-compliance so far. The importance of a mechanism to ensure compliance is self-evident and we have been actively engaged in the

consultations on evolving such a mechanism. In view of likely procedural and legal obstacles related to amending the Convention to do so, we support your proposal for a decision by the Conference on the future compliance mechanism. We would like to thank the successive Chairmen of meetings of States Parties, as also Ambassador Markotic of Croatia in his present capacity as a Friend of the Chair for the efforts made in this direction. We hope the Review Conference will reach consensus on the proposed draft decision. It is our understanding of paragraph 1 of Part II of the draft decision on compliance that the High Contracting Parties are required to take all appropriate steps to meet their obligations under the Convention and its Protocols, including legislative and other measures, only wherever necessary.

The entry into force of Protocol V on ERW, within a few days, will be a landmark development in fulfilling the basic objectives of the CCW Convention. India is among the 25 States that have notified the UN Secretary General of their consent to be bound by Protocol V. We look forward to the special plenary meeting to mark the occasion of its entry into force. We are happy that the Conference will issue a Declaration to mark this occasion, which emphasizes the determination of States Parties to address the humanitarian, developmental and environmental impact of ERW and to reinforce international cooperation and assistance on the issues related to the implementation of Protocol V.

This Protocol stipulates post-conflict remedial measures, including clearance, removal or destruction of ERW. Significantly, it recognizes the right of the High Contracting Parties to seek and receive assistance and requires them to provide assistance in dealing with the problems posed by existing ERW. Article 9 of the Protocol encourages the High Contracting Parties to take generic preventive measures aimed at minimizing the occurrence of ERW, including those referred to in Part 3 of the Technical Annex. We are confident that, when fully and effectively implemented, Protocol V would go a long way towards mitigating the humanitarian concerns associated with ERW. We call upon all States that have already acceded to Protocol V to fully implement it and encourage all other States to join it.

Since the adoption of Protocol V in November 2003, the Working Group on ERW continued its work in two areas related to ERW: consideration of the implementation of existing principles of IHL and possible preventive technical measures aimed at improving the design of certain specific types of munitions, including sub-munitions, with a view to minimizing the humanitarian risks of these munitions becoming ERW.

Discussions in the Group, and the responses of States Parties to the questionnaire on the national implementation of existing IHL principles presented by a group of like-minded States, amply demonstrated that Parties to CCW take their IHL obligations seriously. We appreciate, in this regard, the analytical report of Prof. Tim McCormack, which has identified shortcomings and outlined various steps to promote further implementation of international humanitarian law in the context of explosive remnants of war. We believe States Parties will benefit from this process and will be encouraged to take further measures, as necessary, to meet their IHL obligations.

The CCW process is primarily concerned with the application of existing IHL principles for regulating the use of specific types of weapons, weapon systems and munitions in order to mitigate the humanitarian risks associated with their use. While we should continue to encourage the States Parties to fully meet their IHL obligations within the CCW framework, the proposals for elaborating and developing existing IHL principles and promoting their implementation would be best addressed through the mechanisms available under the Geneva Conventions and its Additional Protocols.

The meetings of military and technical experts on preventive technical measures have carried out useful work on establishing criteria for identifying specific munitions, including sub-munitions, which

pose a greater humanitarian risk. They have also considered measures, including improvements in design, to enhance the reliability of these munitions.

They should be given further opportunity to conclude their work. Since Part 3 of the Technical Annex to Protocol V outlines generic preventive measures pertaining to entire life cycle of munitions, the mandate of the experts should remain focused on identifying preventive technical measures related to the design of munitions.

The Working Group on Mines other than Anti-Personnel Mines has made significant progress in evolving outline of a future protocol to regulate the use of MOTAPM without, however, finding common ground on the key issues of detectability and active life span. We hope States Parties will demonstrate flexibility in order to reach consensus on the remaining issues enabling us to adopt a legally binding protocol on MOTAPM that would maintain the balance between humanitarian concerns and the military utility of these weapons. Having carefully considered the three options outlined in the Coordinator's Paper, we do not consider it appropriate to allow States to adhere to only to a part of, and not all of the obligations contained in a future instrument. This may not be conducive to fully addressing the humanitarian concerns arising from the use of MOTAPM. Our preference, therefore, is for a legally binding instrument with uniformly applicable obligations.

We look forward to a comprehensive review of the scope and operation of the Convention and the Protocols annexed to it. We now have the opportunity to consider the various proposals on the table of the Conference. My delegation will adopt a constructive and flexible approach in so doing.

I would like, finally, to record our appreciation for the active participation of the International Committee of the Red Cross and non-governmental organizations within the CCW process. This has enriched our work and contributed very much to our understanding of the issues. We appreciate their most useful and constructive role and hope to see them involved with the same energy and enthusiasm in our future activities.

I thank you, Mr. President.