

Statement by Ambassador Hamid Ali Rao, Permanent Representative of India to the Conference on Disarmament, at the 5th Session of Group of Governmental Experts on Cluster Munitions, Geneva, on November 7, 2008

Mr. Chairman,

We would like to join other delegations in conveying to you our deep appreciation for your efforts as Chair of the GGE on Cluster Munitions. We would like to take this opportunity to thank you for the consultations that you conducted during the intercessional period and for the Working Paper I dated 31 October.

Mr. Chairman,

India shares the international community's concerns about the humanitarian impact of the irresponsible use of Cluster Munitions. The use of Cluster Munitions is lawful and legitimate if such use takes into account existing International Humanitarian Law. Therefore, India supported negotiation of an instrument in the CCW consistent with the mandate of the GGE that strikes a balance between military and humanitarian concerns.

It is clear that, for various reasons, a comprehensive, universal ban on Cluster Munitions is not within the reach of the international community, either in the CCW or outside. Therefore, during the five sessions of the GGE, our approach was to focus on effective regulation rather than the prohibition of use of CMs as we believe that such an instrument will have a realistic prospect of achieving universality. In whatever manner we slice the issue of definitions, we need to contend with the fact that cluster munitions offer distinct military advantages and until these can be replaced by other alternatives which are cost effective and perform the required military tasks, CMs will continue to find a place in military armories of large number of states, which rely on them for national security reasons. An approach, however expedient, that excludes one class of CMs only to allow technologically more advanced types is unlikely to yield the results that we all aspire. That fact has been sadly reconfirmed today.

As states parties to the CCW we stressed that existing IHL rules of distinction, proportionality and prohibition of indiscriminate attacks must be duly implemented and enforced. We were supportive of efforts to minimize humanitarian risk so that these munitions do not become explosive remnants of war. India participated actively and contributed to the progress in the draft text with regard to clearance and destruction, victim assistance and protection of humanitarian missions and cooperation and assistance.

Mr Chairman,

The negotiations in the GGE demonstrated that despite the complexity of issues, a large cross section states participated in the negotiations, especially states whose adherence to a future protocol would have made a significant impact on the ground. This is indicative of the potential inherent in the CCW process. India approached these negotiations energetically with a constructive attitude with a view to finding viable solutions. We were hopeful that the GGE moved in a positive direction in terms of full-filling the mandate for the GGE that we as High Contracting Parties to the CCW had agreed last November.

The Chairman's draft as in working paper 1 provided a realistic basis for exploring the limits of consensus. An international instrument on Cluster Munitions emanating from the CCW would have enabled universal participation, while resulting in substantial humanitarian benefits. Such an universal instrument would have put in place a single international framework of regulation of use, establish common technical standards of phasing in higher levels of reliability and affirm agreed obligations arising from the use of Cluster Munitions, including in post armed conflict situations. We believe that these would have yielded substantial benefits to the international community.

Mr. Chairman,

While a successful conclusion of GGE would have been a very welcome development, we should not underestimate the value of the GGE or the CCW process as a whole. That it has not been possible for the GGE to bring negotiations to a successful conclusion is in no way a reflection on your work or the diligent work of the Friends of Chair, who deserve our full commendation. India will lend its support to any decision that reaffirms the importance of the CCW process in taking forward the international community's priorities in the field of conventional arms control, regulation of armed conflict and strengthening international humanitarian law.

Let me conclude by conveying my delegation's deep appreciation for all your efforts this past year as chair of the GGE, a task you have discharged with high degree of dedication and professionalism.

Thank you.