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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

Statement by the
International Committee of the Red Cross

New York, 12 October 2010
Mr. Chairman,

In April this year, the International Committee of the Red Cross (ICRC) addressed the issue of nuclear weapons in a speech by its President, Jakob Kellenberger, to the Geneva diplomatic corps. Dr. Kellenberger recalled the ICRC’s first-hand experience with the effects of the Hiroshima bombing. He also highlighted the implications of nuclear destruction for health infrastructure and recent ICRC studies demonstrating a lack of any coordinated international assistance capacity for the victims of nuclear and other weapons of "mass destruction". He welcomed the finding of the International Court of Justice that the use of nuclear weapons is "generally contrary to" the principles and rules of international humanitarian law. In light of the Court’s finding that "(...) the destructive powers of nuclear weapons cannot be contained in either space or time (...)" he declared that "the ICRC finds it difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law". The ICRC President appealed to all States to ensure that such weapons are never used again, regardless of their views on the legality of such use. He also called on States to fulfil their existing obligations to pursue negotiations to prohibit and eliminate such weapons through a legally binding international treaty.

States have begun to give nuclear weapons the attention merited by their implications for human suffering, for the future of the human species and for international humanitarian law. Both the UN Security Council Summit of last September and this year’s Review Conference of the Treaty on the Non-proliferation of Nuclear Weapons (NPT) committed States to "achieve the peace and security of a world without nuclear weapons". The five NPT States possessing nuclear weapons have provided an "unequivocal undertaking" to "accomplish the total elimination of nuclear weapons". In addition, for the first time, NPT States Parties collectively recognised the "catastrophic humanitarian consequences of any use of nuclear weapons" and their responsibility "at all times to comply with applicable international law, including international humanitarian law".

The recognition of the catastrophic humanitarian consequences of nuclear weapons and the commitments just mentioned have profound implications. They must now be translated into a wide range of actions that will progressively end the role of nuclear weapons in State security policies. They must also be translated into a negotiating process, or processes, within agreed fora and timeframes. If the historic commitments by States to advance towards nuclear disarmament are to be realised, it is also essential that negotiations be based not only on military doctrines and power politics. The debate must equally be informed by the implications of these weapons for human beings, the fundamental rules of international humanitarian law and the collective future of humanity.

Mr Chairman,

The ICRC has consistently appealed for stricter national and international control of access to all types of conventional weapons and ammunition. Far too often it is civilians who are victimised when these weapons are used, frequently in violation of international humanitarian law. The ICRC is mandated to protect and assist those affected by armed conflict, in particular civilians. But the challenges in doing this are overwhelming when access to conventional arms and ammunition is unrestrained. An essential element of addressing this problem at the international level is the adoption of an effective, legally binding Arms Trade Treaty (ATT) containing the highest international standards for responsible transfers of conventional weapons. To be effective, the scope of an ATT needs to be broad, covering all conventional weapons and ammunition. Its provisions must also be robust, ensuring that arms are not transferred when a clear risk of serious violations of the law exists. We are encouraged that the Chairman's paper from the July Preparatory Committee session recognises the humanitarian imperative behind an ATT and that one of its objectives must be to prevent serious violations of international humanitarian law. We urge States to ensure that
work in the two Preparatory Committee sessions in 2011 results in a strong and comprehensive draft for finalisation at the Diplomatic Conference in 2012.

The Convention on Cluster Munitions, now signed by 108 and ratified by 42 States, is the latest proof that States can respond firmly and comprehensively to the human suffering caused by specific weapons. The Convention’s entry into force on 1 August 2010 was a milestone. To implement its provisions, States Parties are now working to end the use and proliferation of cluster munitions and, through the Convention’s clearance and victim assistance obligations, addressing the horrible legacy of their use in past decades. The First Meeting of States Parties to this treaty next month in the Lao Peoples Democratic Republic should be the starting point for rapidly increasing clearance capacity and victim assistance efforts in Laos and other affected States Parties. We urge States Parties to attend the meeting with concrete commitments to increasing clearance and victim assistance work in 2011 while also establishing the long-term mechanisms needed for universalising, implementing and monitoring this important Convention.

We again urge all States party to the Convention on Certain Conventional Weapons to ensure that any protocol on cluster munitions developed in the Convention’s framework effectively addresses the humanitarian problems caused by these weapons on the basis of clear legal rules complementary to the obligations of the Convention on Cluster Munitions. Any result should preclude the continued use of cluster munition types known to cause harm to civilians due to their unreliability and inaccuracy.

Of all of the international humanitarian law treaties on specific weapons the Convention on the Prohibition of Anti-personnel Mines has the strongest implementation mechanism and an impressive record of achievements in the eleven years since its entry-into-force. This includes the destruction of over 42 million anti-personnel mines, the clearance of vast areas of land and increased assistance to victims in some contexts. However, the Second Review Conference last December in Cartagena also recognised the serious challenges facing the Convention. These include the failure of several States to meet stockpile destruction deadlines, the numerous requests to extend clearance deadlines and inadequate progress in assisting victims. Meeting each of these challenges will entail more proactive political and practical efforts and more resources – both national and international. The ICRC urges all States Parties to continue to invest the time and resources needed to ensure that this unique Convention delivers on its promises to victims and spares future generations the scourge of these insidious weapons.

Mr Chairman,

In the past fifteen years States have negotiated five new international humanitarian law treaties aimed at mitigating or ending preventable suffering caused by the use of specific weapons. These achievements demonstrate that States can and must set the limits at which "the necessities of war ought to yield to the requirements of humanity", in the words of the 1868 St. Petersburg Declaration. They demonstrate that humanity is not powerless in the face of the harmful effects of the technologies it creates. These recent successes can inspire and guide us together in pursuing the objective of a world without nuclear weapons and with standards for the responsible transfer of conventional arms.