Monday 19 May 2008

A Strong Start

The Dublin Diplomatic Conference on Cluster Munitions began Monday 19 May 2008 with a smooth procedural start, a very positive tone and mood, and a highly efficient and interactive approach to the deliberations. The opening panel of speakers including Irish Foreign Minister of Affairs Michael Martin T.D.; a televised speech from UN Secretary General H.E. Ban Ki-Moon; UN Under Secretary General, Associate Administrator of the UNDP, Mr. Ad Melkert; ICRC President Dr. Jakob Kellenberger; and cluster munitions survivor Branislav Kapetanovich. Shortly before the Conference commenced, Soraj Ghulam Habib, a 16 year old cluster munitions survivor from Afghanistan, presented Irish MFA with a petition to ban cluster munitions containing over 700,000 signatures, amidst cheers from nearly 300 CMC campaigners.

The President of the Conference, Ambassador Daithi O’Ceallaigh of Ireland, quickly got the Conference down to business. The Rules of Procedure governing the Conference were adopted immediately with no objections from participants, resolving a potentially contentious issue. Setting a positive tone for the Conference, President O’Ceallaigh stated he was confident that by the end of the next two weeks the Conference will succeed in adopting a new international treaty banning cluster munitions, and he will make every feasible effort to ensure that it will be adopted by consensus.

To allow the Conference to begin discussing substantive issues without delay, President O’Ceallaigh convened the Committee of the Whole to discuss the Convention article by article, while general statements were heard in a separate plenary meeting. The President explained that where it was apparent that there was no consensus on a particular issue, a Friend of the Chair would be appointed to hold informal consultations in the search for agreement. One highlight from the plenary was Portugal’s announcement that it no longer has any cluster munitions in operational stocks and has commenced destruction of remaining cluster munitions in non-operational stocks. The plenary concluded its general exchange of views today with the CMC statement.

Articles 1, 2, and 3 on the general obligations and scope of applicability, definitions, and storage and stockpile destruction were covered in discussions, with a broad range of participation and an efficient pace. Interoperability, transition periods, definition, deadlines for stockpile destruction, and retention of cluster munitions for training and research purposes were the major issues that arose in the Committee of the
Interoperability was a critical issue for many States, with a few saying that their approval of the entire Convention was conditional on finding an acceptable solution. Those with strong concerns emphasized that interoperability must be dealt with explicitly in the treaty text. Several countries, many who had not spoken on interoperability before, stated they were willing to discuss options but were concerned that proposals must not weaken the treaty. Encouragingly, no State proposed deleting the obligation in Article 1(c) and Friend of the Chair Ambassador Schraner Burganer told the Conference that she would work hard to find a solution that would not create a loophole or undermine the Convention.

Transition periods were also mentioned in discussions on Article 1, but overall received marginal attention. Germany, Denmark, Finland, Japan, and Switzerland reiterated their calls for transition periods. Sweden, for the first time, also stated that a transition period allowing continued use of cluster bombs was necessary, calling it a ‘decisive element.’ Others firmly opposed transition periods as contradictory to the spirit of the Convention.

Discussions on definitions appeared to be moving in a positive direction. There was dwindling support for broad exceptions for cluster munitions with self-destruct mechanisms or with a limited number of submunitions and a broad geographic representation of states opposed such exceptions. Canada made a proposal for Article 2(c), stating that it would agree to a ban on all cluster munitions as long as munitions with “sensor-fuzing and electrical fail safe systems” were excluded from the scope of the definition. This approach of banning all cluster munitions as defined gathered further support, with a number of States that have concerns on the definition issue, including Australia, the Netherlands, Germany, Switzerland, and the United Kingdom emphasized adopting a cumulative approach to drafting Article 2(c), by applying multiple criteria for any weapons that might be allowed under that provision. CMC and ICRC made the point that it is the effects, capabilities and performance of weapons that counts, rather than simply the technology. As such no weapons with the effects of cluster munitions should be excluded from the definition of cluster munitions.

While it was a positive start on Monday, the negative proposals are more likely to come in the informal consultations with Canada and Australia noting they had proposals to table shortly on interoperability and Spain noting it had one read on definitions.
Discussions on stockpile destruction were less encouraging. While a number of States supported the 6 year deadline for stockpile destruction, many indicated that they were flexible on the time period allotted or would consider a 10 year minimum. The number of States calling for retaining cluster munitions for training, research, or the development of countermeasures rose significantly. Of the 24 States that spoke on Article 3, 21 called for the retention of a limited number of cluster munitions. Surprisingly, countries such as Argentina, Chile, Fiji, Indonesia, Malta, Panama, Peru, Portugal, Senegal, and South Africa said they would agree to the possibility of permitting the retention of cluster munitions. Indonesia, Fiji, and Peru cited concerns about their ability to train their peacekeeping forces, while others expressed the caveat that a provision include obligations on transparency and or an explicit minimum number permissible. No State spoke in favor of strengthening obligations in Article 3, such as reducing the minimum time necessary for clearance or eliminating the possibility for an additional 10 year extension, as the CMC recommends. The CMC made interventions on all articles and these will be available shortly.

In addition to the Conference sessions, a lunchtime talk, “A New Treaty on Cluster Munitions: Perspectives from Lao PDR” was presented by UNDP and Landmine Action UK and an exhibition of Werner Anderson’s photographs of cluster munitions victims was unveiled by Norwegian People’s Aid, and Deputy Minister of Defence for Norway, Espen Barth Eide.

At the end of the day, the feeling in Croke Park Stadium was that work was charging ahead. Informal discussions on interoperability will begin tomorrow at 9am, directly followed by definitions at 10:30. The article by article review will continue simultaneously in the Committee of the Whole. There was extensive coverage of the opening of the Conference in the media, both internationally and locally in Ireland. The dynamic partnership of the Oslo Process was illustrated by a joint press conference between Foreign Minister Martin, Jakob Kellenberger (ICRC), Ad Melkert (UNDP) and Thomas Nash (CMC). One highlight of the print media was the publication of a letter signed by of high ranking former UK and NATO military generals calling for the UK to agree to a total ban on cluster munitions in the Times UK.

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Thank you to Katie Harrison for drafting this update.