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Now is the Time to Conclude a Legally Binding CCW Protocol on Cluster Munitions

Fourth Review Conference of the High Contracting Parties to
The Convention on Certain Conventional Weapons

Opening Statement for the United States Delegation by
Phillip Spector, Head of Delegation

As delivered

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Thank you Mr. President.

On behalf of the United States of America, I welcome the opening of the Fourth Review Conference of the Convention on Certain Conventional Weapons. I'm particularly pleased to acknowledge that this the first review conference in which the United States is participating as a High Contracting Party to the Convention and all five existing protocols. We strongly encourage other States Parties that have not done so to consider ratifying the Convention and all of its protocols, and we strongly support the plan for Universalization of the Convention and its protocols.

I want to stress the importance the United States attaches to the CCW as a forum that has been able to successfully bring together States with diverse national security concerns. Some have suggested revisiting some of the protocols; we do not believe it is necessary or appropriate to reopen the CCW protocols, which already have substantial humanitarian value. We also have concerns about certain other proposals for areas of new exploration, some of which are simply inappropriate for the CCW. Ultimately, we believe that the future vitality of the CCW rests both in implementing the existing protocols and ensuring that the CCW remains a robust and meaningful framework that brings states together to balance military necessity with humanitarian concerns to reduce the suffering of civilians.

To that end, I want to begin by recognizing the efforts of, and express our deep appreciation for, the Chairman of the Group of Governmental Experts (GGE), Gary Domingo of the Philippines. Over the past two years, Gary has proved a skillful diplomat in helping to advance a draft that we believe should serve as the basis for a Sixth Protocol to address the most urgent humanitarian concerns regarding the possession, transfer, and use of cluster munitions.

The United States believes that now is the time to conclude a legally binding CCW Protocol on Cluster Munitions based on the Chair's text. A CCW protocol based on this text offers the only chance of bringing the world's major cluster munitions users and producers — who represent between 85 and 90 percent of the world's cluster munitions stockpiles, and are not in a position to join the Oslo Convention — into a legally binding set of prohibitions and regulations.

The ban on cluster munitions produced before 1980 would immediately, upon ratification and entry into

force, prohibit over 2 million cluster munitions – representing more than 100 million submunitions — of the total U.S. stockpile of more than 6 million cluster munitions. In other words, the pre-1980 rule alone will prohibit more cluster munitions for the United States than the Oslo Convention has prohibited for all of its member states combined. We know the protocol will have a strong impact on other states as well. At the last GGE, Ukraine announced that the pre-1980 rule would prohibit more than a third of their existing stocks, which amount to almost 700,000 tons of their cluster munitions. And you just heard that the protocol would ban millions of Russia's munitions as well. What is emerging is that the protocol would immediately prohibit many millions of the world's most dangerous clusters munitions, an impact several times that of the Oslo Convention.

However, the draft protocol does not end there. The Chair's text would immediately prohibit the transfer of all cluster munitions that do not possess a safeguard. And the Chair's text would commit states to a legally-binding, time-bound framework for the prohibition of all cluster munitions without a safeguard. For the United States, the ban on weapons produced after 1980 without safeguards would prohibit millions more of its cluster munitions, the vast majority of its remaining operational stocks.

Next, the draft protocol continues from there to place any cluster munitions that remain under a extensive set of additional binding legal restrictions, among them ones that further constrain use and transfer. And, states would be bound to comply with a detailed set of other rules concerning cluster munitions, including obligations with regard to clearance, transparency, international cooperation, victim assistance, and technology assistance, to name just a few. Absent a protocol, none of these new binding legal obligations would be present.

Finally, the Chairman's draft protocol is designed to evolve and grow stronger over time, built around technical annexes that can adapt to the technical developments that will inevitably occur and inure to the benefit of civilian populations around the world, and with commitments to review the Annexes and endeavor to agree on additional comprehensive provisions during review conferences.

The United States recognizes the important contributions of the Oslo Convention in this area. The proposed Protocol VI is designed to be fully complementary with the Oslo Convention, not to undermine it. And as the framework CCW Convention and the Chair's text emphasizes, nothing in here diminishes or detracts in any way from existing international law. We are optimistic that the draft protocol takes a significant step toward our shared goal of addressing comprehensively the humanitarian impact of cluster munitions.

The Chair's text achieves our negotiating mandate to address urgently the humanitarian impact of cluster munitions while striking a balance between military and humanitarian considerations. We recognize that this has been a complex negotiation, and that all sides may not be fully satisfied. We have heard discomfort from Oslo states and major users and producers alike, but that is the very essence of a strong compromise. A compromise that, as we have heard in the room today, would have a real and immediate impact on 85 to 90 percent of the world's CMs – new legally binding rules for weapons that are not prohibited today.

Mr. President, for the United States, the path forward is clear. We have moved gradually towards this text over time, and it reflects the center of gravity of the room. After so many years of productive negotiations, a Sixth Protocol that would bring major users and producers of cluster munitions under a binding legal regime for the first time is finally within reach — we must not let this rare and unique opportunity slip away. We look forward to our discussions these two weeks; we must act now to realize this humanitarian aim.

Thank you, Mr. President.