

CANADA

General Statement

Thank you Mr. President,

Canada is pleased to see you presiding over this fourth Review Conference within the CCW framework, and <sup>and join the chorus of High Contracting Parties</sup> we pledge to you our full support and cooperation in the course of <sup>our</sup> ~~your~~ work over the coming two weeks. <sup>in pledging our</sup>

Mr. President,

Canada is a long-standing supporter of the work and outcomes of the CCW. Canada's history with the CCW dates back to 1981, when we first signed the framework Convention, and has continued to the present day, as evidenced by our active participation in all aspects of the implementation and universalization of, and compliance with, the treaty and its Protocols. Since 2009, Canada has been a High Contracting Party to <sup>all five</sup> ~~every single one~~ of the Protocols of the instrument.

For Canada, the CCW is a unique, important and potentially potent forum to which we attach great <sup>significance / value</sup> prominence. It is unique because it brings together a broad cross-section of States from various regions of the world under one ~~permanent~~ conventional disarmament framework, with a number of significant achievements to its name. It is important because of its on-the-ground impact on both civilians and combatants. And it is potentially potent because of its ability address the devastating humanitarian impact of those weapon systems that are found to be excessively injurious or have

indiscriminate effects, by providing a framework within which to continue relevant negotiations towards new legally-binding instruments of International Humanitarian Law.

You will note, however, that I do not say the CCW is potent, but rather that it has the potential to be; ~~the CCW is not living up to its potential, and has not been for quite some~~

~~time~~. The last tangible outcome of the CCW was Protocol V, which was adopted by the

Meeting of States Parties to the CCW on November 28, 2003 – almost eight years ago

to the day. Since then, ~~meaning from 2003 until now~~, the CCW has spent 103 days

discussing and negotiating, in turn, in various contexts, MOTAPM, ERW and Cluster

Munitions, with no results to show for these efforts. Rather, the related outcomes have

unfolded outside of the CCW framework, in direct response to the lack of action within

this body.

In the time it has taken CCW States to arrive at the draft Chair's text on Cluster

Munitions currently before us – ~~namely~~ <sup>more than</sup> 80 days spread over almost four years – the

*Convention on Cluster Munitions* was conceived, prepared, negotiated, adopted and

Entered Into Force. Therefore, the argument that there is no ~~sufficient~~ commonality of

views to move forward on a Protocol within the CCW falls somewhat flat; especially if

you accept, as does Canada, that this new Protocol need not copy the CCM, merely

that it be complementary to it. Moreover, we do not doubt; ~~as evidenced by numerous~~

~~statements and declarations made over the years~~, that there is significant political will

from various quarters on the desirability of a new Protocol *within the CCW framework*.

~~So wherein lies the rub?~~

Canada's view of a complementary protocol is one with immediate and significant prohibitions that actually achieves the goal we have been searching for – that is to “urgently address the humanitarian impact of cluster munitions” in the field. In listening to the various interventions yesterday and today, as well as over the course of negotiations on a draft Protocol VI on Cluster Munitions during the last four years, it seems everyone shares this goal; we have consistently heard the refrain that our objective is to address the humanitarian consequences of Cluster Munitions, while taking into account the various military and security situations of the respective Member States vis-à-vis those weapons. This concept is articulated in the mandate of the GGE as “striking a balance between military and humanitarian considerations.” And yet, as South Africa pointed out yesterday in their statement, the draft Chair's text currently on the table does not give effect to that mandate. Why is that?

The answer, to us, is likely due to a number of factors, but chief amongst them seems to be this: States Party simply do not share a common view on what constitutes the appropriate balance between military considerations and humanitarian concerns.

Unless and until this balance is identified, agreed upon and articulated, we will continue to run in circles, repeating the same entrenched positions over and over and coming no closer to a real compromise.

Mr. President,

It is for this reason that Canada believes that serious attention must be given to addressing this fundamental conceptual difference that underpins the starting positions of our respective delegations. Rather than continue to chase an elusive rabbit down a

warren fraught with diametrically opposed paths and mutually exclusive trails, we need to pause, regroup and focus our efforts on our basic understandings. If we do not share a common understanding of the mandate we have been entrusted to implement, then how can we possibly give effect to it?

Such an approach would have us take a step back from the Chair's text currently on the table; a welcome step back in our view. We have heard from a myriad of delegations in recent days and months, expressing various perspectives on the Draft Text. For some, it is the basis of any future work, and the best option to take us forward towards a compromise solution. For others, Canada included, this text simply does not address the very serious negative humanitarian impact of cluster munitions in any significant way. The text falls far short of what we have, together, been seeking to accomplish. By way of illustration, it is perhaps useful to examine what the draft does not do – in particular it does not:

- Provide an accepted, significant, meaningful and immediate prohibition;
- Address the wide area effect of current and future cluster munitions in any way;
- Address, either the inherent unreliability of cluster munitions and sub munitions, or their inaccuracy.

In fact, this text would actually authorize, and possibly encourage, continued use of weapons that are known to cause harm to civilians both at the time of use and afterwards.

It is Canada's belief that a significant number of states, <sup>probably</sup> almost 70% of the High Contracting Parties, share the view that consensus has not been achieved with this text. Given this lack of consensus, it is perhaps timely to put the issue of cluster munitions <sup>aside</sup> ~~behind us~~ for the present and concentrate our efforts on both ensuring the full and complete implementation of the Convention on Certain Conventional Weapons and all five of its existing protocols, as well as addressing the fundamental issue that will underpin all of our future negotiations; namely identifying the balance between humanitarian concerns and military considerations mentioned above. This is an issue meriting serious reflection, and one we feel is worthwhile of <sup>our</sup> ~~further~~ collective consideration.

Before concluding on this point, Canada would like to specifically thank the current Chair of the GGE, and his three stalwart Friends, for their unceasing efforts to try to bring this issue to a successful conclusion. It has been a truly Herculean, or perhaps Amazonian, effort and one which deserves all of our gratitude.

Mr. President,

Finally, we would like to take this opportunity to remind delegations of the Non-Paper tabled by Canada at the August 2011 GGE, which was subsequently converted into Working Paper CCW/GGE/2011-III/WP.4. The Working Paper proposes a number of factors – varying in importance - that High Contracting Parties may wish to consider in the scheduling of future meetings, in order to determine the merit of any particular meeting and to avoid the <sup>automatic scheduling</sup> ~~automaticity of doing so~~ without justification or cause. We look forward to introducing and tabling a related decision based on the Working Paper later

on this week, and in the interim, remain available to discuss the document further with any interested delegations. We hope we can count on your support in our efforts to make our meetings more <sup>focused</sup> productive and ~~more~~ effective.

Thank you.