

Wellington Conference on Cluster Munitions

Statement on behalf of the United Kingdom

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ARTICLE 4: CLEARANCE AND DESTRUCTION OF CLUSTER MUNITION REMNANTS

Mr Chairman,

Clearance of unexploded ordnance that poses a humanitarian threat after a conflict has ceased is a key element to reducing the humanitarian suffering we aim to address.

The current text of Article 4 is clearly modelled on the Ottawa Convention although there are some key words omitted that we consider merit re-insertion. While this is a reasonable starting point we also need to recognise that cluster munitions and anti-personnel landmines are two completely different types of weapon designed for very different purposes. Prior to the Ottawa Convention the use of landmines was regulated by CCW Protocol 2 and when properly adhered to records of mines whereabouts were or are available and areas were or are marked and fenced. This is not the case with cluster munitions

But we do not have to re-invent the wheel. We have in CCW Protocol 5 a valuable piece of work. We recognise that not all participants in this process are States Parties to the CCW, therefore recalling some of Protocol 5's language might help our work and be more appropriate..

As mentioned by other speakers, including the CMC, the obligation in Article 4.2c requires careful consideration. Do affected areas really need to be both fenced and monitored? And what is precisely meant by these terms? In some cases it may simply not be feasible. The issue of records and data will be challenging. Unlike minefields which have been recorded for many years, no such obligation to record cluster munition firing data was laid upon states prior to entry into force of CCW Protocol 5.

As currently drafted Article 4.4 contains a retrospective obligation to clear that would require States Parties to provide assistance dating back to when cluster munitions were first used. First we consider that the responsibilities set out in this article should fall to the sovereign state – rather than being shared between each State Party. But, in addition, this retrospective nature is not normal within international conventions. We believe that conventions should focus on future use and future obligations on a State Party following entry in to force of the

Convention. My delegation therefore supports the proposal made by Italy to delete current Article 4.4.

My delegation will submit drafting proposals that take account of these concerns.

ARTICLE 4: CLEARANCE AND DESTRUCTION OF CLUSTER MUNITION REMNANTS: UK PROPOSAL

1. After the cessation of active hostilities and as soon as feasible, each State Party undertakes to clear and destroy, or ensure the clearance and destruction of cluster munition remnants that pose a humanitarian threat located in areas under its jurisdiction or control, and shall complete such clearance no later than 10 years from the date of entry in to force of this convention for that State Party.

2. In fulfilling the obligations set out in paragraph 1, each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

- (a) Survey and assess the threat posed by cluster munition remnants;
- (b) Assess and prioritise needs and practicability in terms of marking, protection of civilians and clearance and destruction, take steps to mobilise resources and develop a national plan to carry out these activities;
- (c) Ensure to the maximum extent possible that all cluster munition remnants located in areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the 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;
- (d) To the extent possible clear and destroy sub-munition remnants that pose a humanitarian threat located in areas under its jurisdiction or control; and
- (e) Conduct risk education to ensure awareness among civilians living in or around areas in which cluster munition remnants are located of the risks posed by such remnants.

3. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.

4. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in

paragraph 1 of this Article within that time period it may submit a request to a Meeting of States Parties, or a Review Conference, for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants, for a period of up to 10 years.

5. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall contain:

- a) The duration of the proposed extension;
- b) A detailed explanation of the reasons for the proposed extension, including:
 - i) The preparation and status of work conducted under national clearance and demining programmes;
 - ii) The financial and technical means available to, and required by, the State Party for the clearance and destruction of all cluster munition remnants; and
 - iii) Circumstances which impede the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control;
- c) The humanitarian, social, economic, and environmental implications of the extension; and
- d) Any other information relevant to the request for the proposed extension.

6. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.

7. Such an extension may be renewed upon the submission and assessment of a new request in accordance with paragraphs 4, 5 and 6 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.