

Convention on Cluster Munitions

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Consideration of requests submitted
under Article 3 and Article 4 of the Convention

Analysis of Bulgaria's request of deadline extension under Article 3 of the Convention on Cluster Munitions

Submitted by the Analysis Group of Article 3 Extension Requests — Austria, Mozambique, the Netherlands and Peru

I. Background

1. The Republic of Bulgaria signed the Convention on Cluster Munitions on 3 December 2008, ratified on 6 April 2011, and it entered into force for it on 1 October 2011. In its initial transparency report submitted on 27 March 2012, Bulgaria reported to have a total of 6,874 cluster munitions stockpiled under its jurisdiction and control that were marked for the purpose of destruction. Bulgaria was obliged to destroy or ensure the destruction of all cluster munitions by 1 October 2019. In the same report, Bulgaria announced that it was developing plans, including a timeline, for the destruction of its cluster munitions stockpiles and that it would conclude the process well in advance of its stipulated deadline. In its 2012 annual report, Bulgaria announced that a draft national plan for the destruction of its stockpiles had been elaborated but that the financial parameters still needed to be clarified. In its 2014 and 2015 transparency reports, it stated that a national plan was in its final stage of preparation. Subsequent annual reports showed limited progress in Bulgaria's destruction plan. In its 2017 annual report, Bulgaria announced that the process to destroy its stockpiles had been suspended because the contractor selected through the NATO Support and Procurement Agency (NSPA) had failed to meet the criteria to get authorization under Bulgarian legislation. It explained that it would explore new options to fulfil its obligations stemming from Article 3.

2. At the Eighth Meeting of States Parties (8MSP) of the Convention on Cluster Munitions held in September 2018, Bulgaria informed States Parties that should its National Plan for the Destruction of Cluster Munitions not be ready by its treaty deadline of 1 October 2019, it would submit a request for an extension. On 22 November 2018, Bulgaria informed the Implementation Support Unit of the CCM (ISU) of its intention to submit an extension request and sought the ISU's assistance and input in regards to the preparation of its request.

II. Consideration of the request

3. On 9 January 2019, the Republic of Bulgaria submitted to the President of the Ninth Meeting of States Parties (9MSP) with a copy to the ISU, a request for an 18 months extension of its deadline up to 1 April 2021.

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4. The ISU brought the request to the attention of the CCM Coordination Committee which created an Analysis Group to consider Bulgaria's request. The Analysis Group comprised of the Coordinators on Stockpile Destruction and Retention (Austria and Mozambique), and the Coordinators on International Cooperation and Assistance (the Netherlands and Peru).
5. Being the first Analysis Group on Article 3 implementation, a methodology was created and adopted on 17 January 2019 by the Coordination Committee to be used for all subsequent extension requests, to ensure a uniform approach to all requests. The methodology created will be presented to States Parties for formal adoption at the 9MSP.
6. The ISU made an initial assessment on Bulgaria's extension request submitted on 6 December 2018 to ensure that it did not lack any critical component. Thereafter, a formal submission was made on 9 January 2019 which was forwarded to the Analysis Group for its consideration.
7. In preparation of the preliminary report, the Analysis Group held a consultative meeting on 25 January 2019 with three organizations that offer relevant expertise: the Cluster Munition Coalition (CMC), the International Committee of the Red Cross (ICRC), the Geneva International Centre for Humanitarian Demining (GICHD). On 31 January 2019, the Analysis Group requested additional information from Bulgaria to facilitate its analysis of the request. On 1 February 2019, Bulgaria informed the Analysis Group that the NSPA anticipated a two months delay to the end of May 2019 regarding the selection of a contractor to destroy its stockpiles. On 2 April 2019, Bulgaria provided additional information and clarification to the questions raised by the Analysis Group.
8. On behalf of the 9MSP President, the ISU on 25 April 2019 informed States Parties to the Convention that Bulgaria had submitted its extension request and that its request and clarifications sought by the Analysis Group had been made available on the CCM website.
9. Bulgaria's extension request indicates that cluster munitions under its jurisdiction and control have been separated as follows:
 - (a) 186,349 explosive submunitions including those contained in 6,862 cluster munitions owned by the Bulgarian Armed Forces that are to be destroyed by a contractor to be selected through the NSPA by the end of May 2019. These munitions have been divided into 3 lots: the first and second to be destroyed by the end of 2019, and the third to be destroyed in 2020. It also indicates that a verification process will take place between January and March 2021;
 - (b) 400 retained submunitions for the purpose of training of the Bulgarian Armed Forces;
 - (c) 1,344 items imported from Cyprus which the private company EXPAL BULGARIA JCS is expected to destroy before 1 October 2019.
10. Bulgaria's extension request indicates that the Bulgarian Armed Forces do not have the relevant equipment, facilities, technology and trained staff to destroy its stockpiled cluster munitions. In order to meet its Article 3 obligations, Bulgaria signed an agreement with the United States of America (USA) in 2013. The extension request highlights that 1.8 million USD have been provided by the USA through the NSPA for the destruction of Bulgaria's cluster munition stockpiles. The request further provides a breakdown of annual costs to ensure destruction of the 3 identified lots and indicates that the Bulgarian government has developed a resource mobilization plan to secure additional funding if need be.
11. Bulgaria provides in its extension request information on the legal and technical challenges it faced to select a contractor in the past and explains that NSPA organized a new tender procedure for selecting a contractor in January 2019. However, the process was delayed due to the necessity for NSPA to further scrutinize the project documentation. The request therefore indicates that final selection of a contractor is expected by the end of May 2019 and that the contractor is anticipated to provide a final Project Management Plan within 30 days after contract award.
12. The request specifies that the Statement of Work (SOW) approved by the Bulgarian Ministry of Defense in October 2018 provides guidelines on the destruction methods and

standards to be used by the contractor-to-be selected for the demilitarization of cluster munitions, including applicable environmental standards.

13. In its extension request, Bulgaria indicates that the destruction should be completed within 12 months of contract award and that it will most probably be performed outside of its territory in a State Party to the Convention.

14. The Analysis Group had sought clarification on Bulgaria's national ownership over the stockpile destruction process, especially in terms of selecting the contractor and monitoring implementation of the contract. In Bulgaria's response, it clarifies that before signing the contract with the contractor-to-be, it will demand guarantees for a comprehensive and timely monitoring of the overall process.

III. Conclusions

15. The Analysis Group notes with appreciation that Bulgaria has secured 1.8 million USD to destroy its stockpiles and that it has also developed a national resource mobilization plan. It would be beneficial for States Parties to receive further details on this plan.

16. The Analysis Group notes that the information provided in the request and in the subsequent response to the questions of the Analysis Group is based on currently available information.

17. The Analysis Group also notes that the actual implementation of the extension request will be dependent on the selection of a contractor for the destruction of the cluster munitions according to the most recent information received in June 2019.

18. The Group further notes that selected contractor is required to provide a Project Management Plan with a detailed work plan for the destruction of the cluster munitions upon selection. It would be beneficial for States Parties to receive further details from Bulgaria on the project management and work plan, once they have been concluded.

19. The Analysis Group notes that the Convention would benefit from Bulgaria reporting annually through its Article 7 reports and at Meetings of States Parties or Review Conferences the following:

- (a) Progress made on the destruction of its stockpiles
- (b) Updated information on remaining stocks and use of its retained submunitions
- (c) Detailed work plan for the subsequent year
- (d) Other relevant information.

20. The Analysis Group notes the importance, in addition to Bulgaria reporting to the States Parties as noted above, of keeping the States Parties regularly apprised of other pertinent developments regarding the implementation of Article 3 during the period covered by the request at Meeting of States Parties or Review Conferences.

IV. Draft Decision on the Article 3 Extension Request submitted by Bulgaria

21. The Meeting assessed the request submitted by Bulgaria for an extension of its deadline for completing the destruction of all its cluster munitions stockpiles in accordance with Article 3.2 of the Convention, agreeing to grant an extension of 12 months up to 1 October 2020 pending the selection of a contractor and the provision of a detailed project management and work plan to be included in an updated extension request to be considered at the 2nd Review Conference.

22. In granting the request, the Meeting noted that Bulgaria had highlighted the challenges it had encountered in the selection of a contractor.

23. In granting the request, the Meeting notes that Bulgaria has secured 1.8 million USD to ensure stockpile destruction.

24. In this regard, the Meeting noted that the Convention would benefit from Bulgaria reporting annually through Article 7 reports and at Meetings of States Parties or Review Conferences on the following:

- (a) Progress made on the destruction of its stockpiles
- (b) Updated information on remaining stocks and use of its retained submunitions
- (c) Updated detailed plan for the subsequent year
- (d) Other relevant information.

25. In addition to reporting as requested above, the Meeting noted the importance of Bulgaria keeping the States Parties regularly apprised of other pertinent developments regarding the implementation of Article 3 during the period covered by the request and other commitments made in the request at Meetings of States Parties or Review Conferences as well as through its Article 7 reports due before 30 April every year.
