

DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

CCM/47

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Proposal by France and Germany for additional text

Additional provisions on assistance with respect to Explosive Remnants of cluster-munitions existing prior to the entry into force of the Convention¹

Such a provision could be included in Article 4 or preferably in Article 6 with the other provisions dealing with international assistance

This paragraph/**Article** shall apply in cases in which cluster munitions have been used or abandoned by ~~one~~ **a State Party or non-party** prior to entry into force of this Convention **[for it]** and have become **explosive remnants of** cluster munitions located in areas under the **[jurisdiction or]** control of ~~another~~ **a State Party** at the time of entry into force of this Convention for the latter. In such cases, upon entry into force of this Convention for **each affected State party**:

1. Each State party has the right to seek and receive assistance, where appropriate, from other States parties, from states non-party and relevant international organizations and institutions in dealing with the problems posed by existing **explosive remnants of cluster-munitions.**

2. Each State party in a position to do so shall provide assistance in dealing with the problems posed by existing **explosive remnants of cluster-munitions,** as necessary and feasible.

3. States parties in a position to do so and which, during an armed conflict, have used or abandoned Cluster Munitions on the territory of another State party which may have become explosive remnants of cluster munitions are invited to make available, without delay after the cessation of active hostilities and as far as practicable, subject to these parties' legitimate security interests, such information to the party or parties in control of the affected area, bilaterally or through a mutually agreed third party including inter alia the United Nations or, upon request, to other relevant organizations which the party providing the information is satisfied that they are or will be undertaking risk education and marking and clearance, removal or destruction of explosive remnants of cluster munitions in the affected area.²

¹ It is proposed that the issue of Explosive Remnants of Cluster Munitions existing before the entry into force of the Convention be dealt with either by adding a paragraph to Article 4 or a separate Article, as in Protocol V (Article 7). In the additional paragraph/Article proposed above the chapeau is based on the first part of Article 4, paragraph 4 of the Wellington text (with amendments): the first 2 sub-paragraphs (1 and 2) are based on Article 7(1) and 7(2) of CCW Protocol V; sub-paragraph 3 is based on Article 4(2) of Protocol V; and sub-paragraph 4 is added for the sake of coherence with Article 4(4) above.

² It should be noted that the addition of this sub-paragraph would be – even with “should” or “are invited to” instead of “shall” – a meaningful step forward compared to obligations under Protocol V, since Article 4 of Protocol V only applies to “ERW other than existing ERW...”

4. In so doing, States parties shall also take into account the humanitarian objectives of this Convention, as well as international standards including the International Mine Action Standards.