

Convention on Cluster Munitions: Fourth Meeting of States Parties

Statement by Norway on Article 4.

Presentation of working paper on compliance with Article 4

Thank you, Madam President.

First we would like to thank the coordinators for clearance for their efforts throughout the past year and for the paper submitted on the implementation of Article 4. The paper provides valuable input to our continuing discussions.

I would now like to introduce the paper submitted by the Norwegian Presidency of the 3MSP entitled Compliance with Article 4, as contained in document no CCM/MSP/2013/WP.1

Article 4 concerns the need to remove cluster munition remnants from the ground so as to allow the land to be used safely. To achieve this, all contaminated areas must be accurately identified and delineated, an effort that in many instances has proven to be more challenging than the actual clearance operation.

As more States progress with their survey and clearance operations, clarification of what constitutes fulfillment of the treaty's Article 4 obligations, will be important. We need to learn from the experiences from the Mine Ban Convention. Under the MBC, discussions on what compliance actually means came quite late in the process. It is our belief that the CCM and SPs in the process of implementing Article 4 would benefit from clarifying issues related to compliance at an earlier stage.

To assist such a clarification, the working paper Norway has presented to this meeting discusses the actions States with Article 4 obligations should take in order to comply with the provisions of that article.

The paper has been developed following consultations with affected States Parties and experts from international organizations and clearance operators. A draft version was presented to all States Parties and other stakeholders for discussion at the April Intersessional meetings, and the final version builds on the comments received following that discussion. In their comments, the field operators have consistently emphasised the importance of Article 4.2(a) of the Convention, the identification of known and suspected contaminated areas through surveys. The final version has been available on the Convention's website since July.

The paper provides recommendations for States Parties on how to strategically plan and execute survey and clearance operations, directly linked to the relevant provisions of the Convention. They do not entail any additional obligations for States Parties. The paper also includes a suggested voluntary template for the declaration of compliance, provided for in article 4.1 (c) of the Convention.

In 2011 states recognized the value of applying the full range of methods for the

efficient survey and clearance. At that meeting states welcomed the paper presented by Australia outlining seven guiding principles that states should take into account when conducting survey and clearance. The paper contained a set of concrete and operational recommendations for how to address contamination by cluster munition remnants in the most effective and efficient manner. Our paper builds on and further develops the analysis and recommendations in the Australian paper.

Madam President,

Rather than repeating the details in the paper, allow me to highlight some of the main points.

The essence of how to fulfill the Convention's obligations when it comes to survey and clearance is specified in its Articles 2.11, 4.2(a), 4.2(d) and 4.3.

In sum, these articles require that a State with obligations to clear areas contaminated by cluster munition remnants must have concluded the following steps in order to make a declaration of compliance:

1. A state must have made every effort to identify all cluster munition contaminated areas

AND

2. A state must have cleared and destroyed all cluster munition remnants located in those areas.

A principal question is therefore: What constitutes "*Every effort to identify all cluster munition contaminated areas*"? Two questions are needed to answer this.

The first question is how to identify these areas, that is, what evidence is needed to determine whether an area is contaminated by cluster munition remnants. The second question concerns what the term *every effort* actually means?

On the first question, the paper proposes that known contaminated areas can be determined by the presence of direct physical evidence of cluster munition remnants, while suspected contaminated areas can be determined by making a strong claim based on the presence of indirect evidence of cluster munition remnants.

States Parties at 2MSP agreed that the level of evidence for both *known* and *suspected* cluster munition contaminated areas needs to be defined in national standards, and that these also should specify the required follow-up of both categories of contamination.

On the second question, the paper proposes that the term *every effort* implies an obligation to actively gather evidence regarding the pattern of possible contamination nationally and to consider and evaluate all available sources of information, including indirect evidence.

A related question concerns how to delineate the areas known or suspected to be contaminated. A recurring problem in mine action for two decades has been that contaminated areas have been defined too widely, resulting in ineffective utilization of survey and clearance assets.

To meet these concerns, the paper recommends an approach that defines contaminated areas as narrowly as possible, with the option to add new areas if and when sufficient evidence is found.

The other operational recommendations in the paper concern the need to undertake proper survey and make geo-referenced records of contaminated areas; to develop and include methods that determine the perimeters of a contaminated area as a function of maximum distance from nearest evidence point in national standards; to ensure that surveys differentiate between different categories of explosive contamination and to ensure that data from surveys are properly recorded and made available for relevant stakeholders.

Finally, the paper also recommends that states adopt a voluntary template for declaring compliance, based on the draft annexed to the paper.

Madam President

The paper presents recommendations based on the concrete experience from national authorities and clearance operators in many different areas. We believe that by welcoming these recommendations, this community will have taken an important step towards ensuring the effective and efficient survey, clearance and eventual release of areas known or suspected to be contaminated by cluster munitions remnants.

Madam President,

We understand that there are some questions regarding the status of the WP we have presented. Let me underline once again that the paper contains voluntary recommendations and guiding principles in the same manner as previous working papers, such as the paper presented by Australia and welcomed by the 2MSP in Beirut. Furthermore, the draft voluntary template for a declaration of compliance, annexed to our paper builds on our experiences from implementing Article 5 of the Mine Ban Convention. CCM Article 4.1.c obligates States Parties to submit a declaration of compliance when its obligations under 4.1. a and 4.1. b has been fulfilled. The voluntary template has been developed throughout our consultations and is presented as a suggestion of what such a declaration should contain.

Finally, we would like to thank all those who have contributed to the paper and are looking forward to our discussion.

Thank you.