

## 2008 Meeting of Experts of the States Parties to CCW Protocol V

### Intervention on “coherence” between CCW Protocol V and the Convention on Cluster Munitions

Richard Moyes, Landmine Action, 2 July 2008

Mr President Designate,

As has been noted, this May saw the adoption in Dublin of the Convention on Cluster Munitions. In this context, Landmine Action has prepared a short paper, available in the room, that examines some of the issues of coherence between that new Convention and Protocol V to the CCW. I would like to take this opportunity to highlight some of the key conclusions of that paper.

We note that these instruments serve different purposes. The Convention on Cluster Munitions has been agreed in order to “end” the consistent pattern of humanitarian harm caused specifically by cluster munitions. This pattern is recognised as involving excessive civilian harm *both during and after* attacks. Protocol V, by contrast, is established to “minimise the risk and effects” from unexploded and abandoned ordnance *of all types* in the post-conflict period.

Despite differences of purpose and focus, these two instruments do overlap, and will reinforce each other, in a number of important areas – most notably in their provisions for post-conflict clearance of unexploded items and for international cooperation and assistance in this work. Our assessment is that the CCM is straightforwardly coherent with the obligations of CCW Protocol V.

On the specific obligations of these instruments we note the following for States that are High Contracting Parties to Protocol V:

- Signature and ratification of the Convention on Cluster Munitions and adherence to its prohibitions on the use, production, stockpiling and transfer of cluster munitions, as well as adherence to its obligations to destroy cluster munition stockpiles, should be considered generic preventative measures in accordance with Article 9 of CCW Protocol V. Such measures serve to reduce, or prevent an increase in, the aggregate ERW risk of a State’s overall explosive ordnance stockpile.
- **Article 4** of the Convention on Cluster Munitions provides detailed obligations for the clearance of cluster munition remnants. Whilst the obligations of that Convention relate *only* to cluster munition remnants (as opposed to ERW more broadly as in Protocol V Article 3) the obligations are very similar across the two instruments.

Although in the Convention on Cluster Munitions there are clear time-bound obligations to complete the clearance of cluster munition remnants located in cluster

munition contaminated areas, these obligations should be approached on a prioritised basis and in relation to existing structures, experiences and methodologies.

On this basis, states are not obligated to direct all ERW eradication resources to address cluster munition remnants first *if* they conclude, on the basis of appropriate analysis, that other forms of ERW contamination are presenting a more pressing need.

This prioritisation capacity *does not*, however, remove the time bound obligation to complete clearance of cluster munition remnants under the CCM as soon as possible and not later than ten years after entry into force for that state.

- With respect to Victim Assistance the Cluster Munition Convention goes substantially beyond Protocol V – and it is hoped that the new standard set in this area will inspire states to strengthen their overall provisions for victim assistance without discrimination based on the specific cause of injury or marginalisation.
- International cooperation and assistance under the Convention on Cluster Munitions, with the possible exception of assistance for stockpile destruction, is likely to fall wholly within the more general obligations of Article 8 to Protocol V. Given the practicalities of assistance to humanitarian clearance operations, the prioritisation of clearance activities promoted under the CCM and the practical intent of the regular donors to such activities, the CCM will not create a diversion of humanitarian assistance streams to focus *only* on cluster munitions but, in conjunction with Protocol V, is likely to strengthen the level of support provided to ERW affected countries in general.
- Finally, it should be noted that the Transparency Measures of the Convention on Cluster Munitions are more rigorous than those currently practiced under Protocol V. However, as noted above in relation to the substantive provisions, almost all actions in fulfilment of CCM obligations can be reported in full within the framework of Protocol V. On this basis there would be no need to duplicate work but simply to include the CCM reporting also within the relevant sections of Protocol V national reports.

From this overview we consider that there should be no practical problems of coherence between the two instruments. Indeed, the more detailed, time-bound obligations of the CCM, in conjunction with the broad obligations of Protocol V, should serve to raise the standards expected for rapid removal of all ERW so as to make the post-conflict environment safe for civilians, and for development, and to promote the most effective and measurable progress on victim assistance.

Thank you Mr President Designate