

Convention on Cluster Munitions
Intersessional meetings 2013
Presentation of Norwegian draft working paper on Article 4
Wednesday 17 April

Mr Coordinator.

Thank you for giving us the floor once more in this session, this time to present a draft working paper prepared by the Norwegian Presidency and distributed yesterday.

The Convention on Cluster Munitions is a framework for practical action to address the suffering caused by cluster munitions. A central part of this is the implementation of Article 4 and its provisions obliging states to undertake every effort to identify all areas suspected or known to be contaminated by cluster munition remnants, and to destroy any remnants found. In the Vientiane Action Plan from 2010, States parties with article 4 obligations committed to undertake these measures as soon as possible.

At 2MSP in Beirut, States parties decided to warmly welcome the paper called “Application of all available methods for the efficient implementation of Article 4”, put forward by Australia as Friend of the president on Clearance – which the Coordinators also referred to in their introduction this morning. Through this decision, States parties endorsed a series of practical recommendations for what actions contaminated states could undertake to ensure the application of all available methods for the efficient implementation of Article 4. Thus, this community has already done important groundwork to facilitate expedient implementation of Article 4.

However, in addition to agreement on using the most effective methods, it is also crucial to have clarity on what completion of article 4 provisions actually entails. Experience from implementing the corresponding article on clearance in the Mine Ban Convention has showed the fundamental importance of clarifying what it takes to be able to declare completion of clearance obligations.

We have also learned that there is no need to wait until the first deadlines approach before we start discussing principles related to completion of the clearance obligations. On the contrary, the sooner we achieve clarity on what is expected of contaminated states in order to comply with article 4 obligations, the sooner they can start to plan strategically on how to get to that defined end-state.

Building on the Vientiane Actions on clearance and the Australian paper on methods from 2MSP, the Norwegian Presidency has therefore prepared a draft working paper that aims to clarify the procedures and principles related to what completion of Article 4 means. The main objective is to encourage and facilitate

the fulfillment of clearance obligations and declaration of completion as soon as possible.

The draft paper attempts to unpack the legal obligations of the CCM and incorporate that with the operational realities experienced by clearance actors and national authorities. A principal issue in this relates to what “every effort” as required under Article 4.2 (a) would actually mean, and what an acceptable “end state” in terms of fulfilling CCM obligations would be.

Article 4.2 (a) obliges states to identify all cluster munition contaminated areas, and thus rightly gives emphasis to the need for precisely surveying the actual contamination. If there is one lesson from implementation of the Mine Ban Convention that should not be repeated it is the massive unintended over-estimation of the mine problem that took place in the first decade. This systematic over-reporting, usually as a result of confusing the humanitarian impact caused by landmines with actual physical contamination, has diverted scarce clearance resources, continues to cause a chronic challenge for national authorities and has hampered actual clearance of actual mine-fields for many years.

As a contribution to efforts to avoid this happening again, the paper suggests an approach for how to identify areas *known or suspected* to be contaminated by cluster munition remnants and, when this is established, how these areas should be categorized in national databases. Article 2.11 defines cluster munition contaminated areas as areas that are known or suspected to be contaminated. Thus a state needs to include both categories of areas in its efforts to comply with the Convention. However – an area that is known to be contaminated, for instance due to physical evidence of cluster munition remnants, calls for different operational responses than an area suspected to be contaminated. If there is one thing that two decades with humanitarian mine clearance have taught us, it is the need to differentiate between known and suspected contamination.

This is not a technical paper, and is not intended to supersede existing or emerging national and international mine action standards on survey, land release and clearance. However, in order to reduce the danger of declaring too large areas as contaminated, the paper argues strongly for employing a high threshold of evidence and precision before areas are defined as contaminated and entered into databases.

The reason for this is of course that no database is better than the data entered in to it, and if the evidence threshold for doing so is set too low, then the value of the database as a planning and prioritisation tool will diminish accordingly. It will also seriously hamper efforts to reach completion within a reasonable timeframe.

Finally the paper suggests how a state should declare completion of article 4 obligations, in accordance with article 4.1(c), including a description of steps it will take if previously unknown cluster munition contaminated areas are identified after completion. This is a situation we can assume will occur in several affected states, particular in the most affected ones.

Norway has developed the draft we have presented today, and in the process we have received valuable comments by key implementation actors. Following today's discussion we will revise and further develop the paper, continue our consultations and aim to present a final version for consideration at the 4MSP.

Let me emphasise again that this is a first draft, and we welcome comments and observations from participants at this session and in the time ahead.

Thank you