

COMPENDIUM OF PROPOSALS SUBMITTED BY DELEGATIONS DURING THE WELLINGTON CONFERENCE ADDENDUM 1

PREAMBLE

IRELAND

The States Parties to this Convention,

Deeply concerned that civilian populations and individual civilians continue to suffer most from armed conflict,

Determined to put an end for all time to the suffering and casualties caused by the use of cluster munitions that kill or maim innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, delay or prevent the return of refugees and internally displaced persons, and have other severe humanitarian consequences that can persist for many years after use,

Concerned that cluster munition remnants can undermine international efforts to build peace and security, as well as implementation of human rights and fundamental freedoms,

Believing it necessary to do their utmost to contribute in an efficient and coordinated manner to resolving the challenge of removing cluster munition remnants located throughout the world, and to assure their destruction,

Deeply concerned also at the dangers presented by the large stockpiles of cluster munitions retained for operational use in national inventories, and determined to ensure the speedy destruction of these stockpiles,

Determined to ensure the full realisation of the rights of victims of cluster munitions, and recognizing their inherent dignity,

Resolved to do their utmost in providing assistance for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions,

Bearing in mind the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Mindful of the need adequately to coordinate efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and resolved to avoid discrimination among victims of various types of weapons,

Welcoming the global support for the international norm prohibiting the use of anti-personnel mines, enshrined in the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Welcoming also the entry into force on 12 November 2006 of the Protocol on Explosive Remnants of War, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects, and wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Welcoming furthermore the steps taken in recent years, both unilaterally and multilaterally, aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the global call for an end to civilian suffering caused by cluster munitions and recognizing the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the Cluster Munition Coalition and numerous other non-governmental organisations around the world,

Reaffirming the Declaration of the Oslo Conference on Cluster Munitions, by which States *inter alia* committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and to establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors and their communities, clearance of contaminated areas, risk education and destruction of stockpiles,

***Emphasising* the desirability of attracting the adherence of all States to this Convention, and determined to work strenuously towards the promotion of its universalisation,**

Basing themselves* on the rules of international humanitarian law that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations only against military objectives, **that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations.*

FRANCE

Reaffirming **the purpose of the convention as defined by** the declaration of the Oslo conference on cluster munitions.....

ICRC

[pp2] Determined to put an end for all time to the civilian suffering and casualties caused by cluster munitions at the time of their use, when they fail to function as intended or when they are abandoned,

[pp3] Concerned that cluster munition remnants kill or maim civilians, especially children, obstruct economic development and reconstruction, delay or prevent the return of refugees and internally displaced persons, can undermine international peace building and

humanitarian assistance efforts and have other severe consequences that can persist for many years after use,

[pp15] Basing themselves on the rules of international humanitarian law that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, that the parties to a conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations only against military objectives, that in the conduct of military operations constant care shall be taken to spare the civilian population, civilians and civilian objects and that the civilian population and individual civilians enjoy general protection against dangers arising from military operations,

UNITED KINGDOM

The States Parties

Deeply concerned that civilian populations and individual civilians continue to suffer from armed conflict,

Determined to put an end for all time to the suffering and casualties caused by the use of those cluster munitions that kill or maim innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, delay or prevent the return of refugees and internally displaced persons, and have other severe humanitarian consequences that can persist for many years after use,

Concerned that cluster munition remnants might impact negatively on international efforts to build peace and security, as well as implementation of human rights and fundamental freedoms,

Concerned also that large stockpiles of prohibited cluster munitions earmarked for destruction are stored carefully and destroyed in a timely manner to prevent them from causing humanitarian suffering,

Believing it necessary to contribute in an efficient and coordinated manner to resolving the challenge of removing cluster munition remnants and to ensure their destruction,

Determined to ensure the full realisation of the rights of victims of cluster munitions, and recognising their inherent dignity,

Resolved to providing assistance for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions,

Bearing in mind the convention on the rights of persons with disabilities which, inter-alia, requires that States Parties to that convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,

Welcoming the broad international support for the international norm prohibiting the use of anti-personnel mines enshrined in the 1997 Convention on the Prohibition of the Use of Stockpiling, Production and Transfer of Anti-personnel mines and on their Destruction,

Welcoming also the entry into force on 12 November 2006 of the Protocol on Explosive Remnants of War, annexed to the Convention on Prohibitions, Restrictions on the Use of Certain Conventional Weapons which may be Deeded to be Excessively Injurious or to have Indiscriminate Effects, and wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments.

Welcoming furthermore the steps taken in recent years, both unilaterally and multilaterally aimed at prohibiting, restricting or suspending the use, stockpiling, production and transfer of certain cluster munitions,

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the call for an end to civilian suffering caused by cluster munitions and recognising the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, the cluster munition coalition and numerous other non-governmental organisations around the world,

Reaffirming the declaration of the Oslo Conference on cluster munitions, by which States inter-alia committed themselves to conclude by 2008 a legally binding instrument that would prohibit the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians, and to establish a framework for cooperation and assistance that ensures adequate provision of care and rehabilitation to survivors, clearance of contaminated areas, risk education and destruction of stockpiles,

Guided by the principle of international humanitarian law that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited, and in particular on the general rule that parties to a conflict must at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly direct their operations against the military objectives only,

HAVE AGREED as follows:

LESOTHO

pp 2 Determined to put an end “for all time” to the suffering and casualties caused by the use of cluster munitions,

new pp3 Aware/cognizant of other irreparable harm caused by the use of cluster munitions including to kill or maim innocent and defenceless civilians [and] especially women and children; obstruct economic development and reconstruction; delay or prevent the return of refugees and internally displaced persons and have other severe humanitarian consequences that can persist for many years after use,

UN MINE ACTION TEAM

pp 9 *Mindful* of the need adequately to coordinate efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and resolved to avoid discrimination among victims of various types of weapons **or from any source of disability**,

INDONESIA

new pp “Emphasizing the desirability of attracting the adherence of all States to the Convention, and determined to work strenuously towards the promotion of its universalization in all relevant fora including, inter alia, the United Nations, the Conference on Disarmament, regional organisations, and groupings”

MOZAMBIQUE

Determined to put an end for all time to the suffering and casualties caused by the use of cluster munitions that kill or maim innocent and defenceless civilians and especially children, obstruct economic development and **post-war** reconstruction, delay or prevent the return of refugees and internally displaced persons, and have other severe humanitarian consequences that can persist for many years after use,

(new pp) wishing to enhance the protection of civilians from the effects of cluster munition remnants in post-conflict environments,

Concerned that cluster munition remnants can undermine **national and** international efforts to build peace and security, as well as implementation of human rights and fundamental freedoms,

ARTICLE 1 – GENERAL OBLIGATIONS AND SCOPE OF APPLICATION
JAPAN

1. Each State Party undertakes never under any circumstances to:

(a) Use cluster munitions;

(b) Develop, produce, otherwise acquire, stockpile, ~~retain~~, **own, possess** or transfer to anyone, directly or indirectly, cluster munitions; or

(c) Assist, encourage or induce anyone to engage in ~~any activity prohibited to a State Party under this Convention~~ develop, produce or otherwise acquire cluster munitions.

2. Any State Party may declare at the time of the deposit of its instruments of ratification, acceptance, approval or accession that, while implementing paragraph 1 of this Article, it will continue to use, only when strictly necessary, cluster munitions for a limited period of time not exceeding [x] years from the entry into force of this Convention for that State Party.

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2. In the event that a State Party determines that it cannot immediately comply with paragraph 1 (a) of this Article, it may declare at the time of the deposit of its instruments of ratification, acceptance, approval or accession that it will defer compliance with paragraph 1 (a) of this Article for a period not to exceed [X] years from the entry into force of this Convention for that State Party. During this period, a State Party may use cluster munitions only when strictly necessary.

3. This Convention does not apply to "mines" as defined by the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects.

FRANCE

Each State Party undertakes never under any circumstances to:

- a) Use cluster munitions **as defined in article 2.**
- b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions **as defined in article 2.**
- c) ...

SWITZERLAND

Each State Party undertakes never under any circumstances to:

- a) Use cluster munitions ***as defined in article 2.***
- b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions ***as defined in article 2.***
- c) ...

GERMANY, SUPPORTED BY DENMARK, FRANCE, ITALY, SLOVAKIA, SPAIN, CZECH REPUBLIC, UNITED KINGDOM

1. Each State Party undertakes never under any circumstances to:

- (a) Use cluster munitions;
- (b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions;
- (c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention. **This provision does not preclude the mere participation in the planning or the execution of operations, exercises or other military activities by the Armed Forces or by an individual national of a State Party to this Convention, conducted in combination with Armed Forces of States not Parties to this Convention which engage in activity prohibited under this Convention.**

UNITED KINGDOM

1. Each State Party undertakes never under any circumstances to:

- a) Use sub-munitions as defined in Article 2b.

- b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, sub-munitions as defined in Article 2b
 - c) For the purposes of this Convention, Article 1 does not come in to force until [x] years after entry in to force of the Convention.
2. This Convention does not apply to mines as defined in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

IRELAND

1. Each State Party undertakes never under any circumstances to:
- a) Use cluster munitions.
 - b) Develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions.
 - c) Assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention.
2. ***Dispensers, affixed to an aerial platform and designed to disperse or release explosive bomblets, are subject to the same provisions as cluster munitions***
3. This Convention does not apply to mines as defined in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

Note: proposed changes are in italics.

AUSTRALIA, CANADA, DENMARK, FINLAND, FRANCE, GERMANY, ITALY, JAPAN, NETHERLANDS, UNITED KINGDOM

The following text captures alternative text suggestions presented during discussions on interoperability and proposed for inclusion in the Compendium to be attached to, and which is understood to have equal status with, the Draft Convention as follows:

"Scope of prohibitions - alternative text

Alternative text for Article I(c) as proposed by Japan, and supported by: Australia, Czech Republic, Denmark, Germany, France, Italy, Turkey and the United Kingdom:

"1. Each State Party undertakes never under any circumstances to:

(c) Assist, encourage or induce anyone to develop, produce or otherwise acquire cluster munitions."

Other alternative text as proposed by France: (to be included in an additional article, for example Article 9 *ter*)

"Nothing in this Convention shall be interpreted as in any way preventing military interoperability between States parties and non-States parties to the Convention"

Alternative text as proposed by Canada:

"Notwithstanding any other provision of this Convention, a State, on becoming a party to this Convention, may declare that, for a period of [xx] years after the entry into force of this Convention for the State concerned, it does not accept the application of Article I (c) with respect to its participation in combined operations and activities with non-party states. A declaration under this article may be withdrawn at any time. During this period in which the declaration under this article remains in force, the State concerned shall take steps to encourage the government of any non-party state participating in such combined operations and activities to ratify this Convention."

Other alternative text as proposed by Germany:

"This provision does not preclude the mere participation in the planning or the execution of operations, exercises or other military activities by the armed forces or by an individual national of a state party to a convention conducted in combination with the armed forces of states non-party to this convention in any activity which is prohibited by this convention."

AUSTRALIA, CANADA, DENMARK, FINLAND, FRANCE, GERMANY, ITALY, JAPAN, NETHERLANDS, UNITED KINGDOM

The following text was developed in response to discussions on cluster munition definitions and captures significant issues requiring further consideration in order to develop an agreed definition of "cluster munitions that cause unacceptable harm to civilians". This text is proposed for inclusion in the Compendium to be attached to, and which is understood to have equal status with, the Draft Convention as follows:

"Definitions - alternative elements

The following weapon reliability and accuracy characteristics, either individually or in some combination, were posed by several States as being potential descriptors of those cluster munitions which do not cause unacceptable harm to civilians:

1. sensor fuzing (multiple or single) (point target discrimination) (deliver effects within a defined area);
2. fail-safe systems (self-destruct and self-neutralisation) (and self-deactivation) (mechanical and/or electronic based systems);
3. restrictions on the numbers of sub-munitions per cluster munition;
4. delivery by direct fire;
5. failure rates; and

6. accuracy (in terms of delivery of the cluster munition to the target area).

Several States also posed further consideration of:

1. other general reliability and accuracy considerations;
2. transition periods (for commencement of the primary prohibitions in Article 1); and
3. transition periods (for those munitions with a reliability of <1% and which possess failsafe systems.)"

ARTICLE 2 – DEFINITIONS

JAPAN

For the purposes of this Convention:

...

"Cluster munition" means a munition that is designed to disperse or release **more than 10** explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects; or
- (c) reliable cluster munitions or accurate cluster munitions.**

"Reliable" cluster munitions are those cluster munitions which contain explosive sub-munitions which are equipped either with self-destruction mechanism, self-neutralization mechanism or self-deactivating mechanism or those cluster munitions which cause cluster munition remnants at the rate of not more than one percent.

"Accurate" cluster munitions are those cluster munitions which are equipped with guidance system or otherwise effective only within a pre-defined area.

...

GERMANY

For the purposes of this convention:

....

"Cluster munition" means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;

- (c) **a munition containing less than [x] explosive sub-munitions each designed to engage a point target within a pre-defined area and equipped with a self-destruct and self-deactivation mechanism; (new text)**

(Note: "Point Target" is a target, which requires the accurate placement of bombs or fire. "Area Target" is a target, consisting of an area rather than a single point).

- (d)

"Explosive sub-munitions" means munitions that in order to perform their task separate from a parent munition and are designed to function by detonating an explosive charge prior to, on or after impact;

"Reliable" cluster munitions mean cluster munitions which contain explosive sub munitions of a dud rate below one percent. (new text)

"Accurate" cluster munitions or explosive sub munitions are munitions which are effective only within a pre-defined target area. (new text)

FRANCE

For the purposes of this Convention,
(...)

"Cluster Munition" means a carrier/container which contains conventional explosive sub-munition: and is designed to eject, disperse or release conventional explosive sub-munitions.

It does not mean:

- (a) A munition or sub munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) A munition or sub munition designed to produce electrical, electronic or illuminating effects;

(c) A munition containing less than [X] explosive sub munitions

(d) Option 1: A munition designed to engage targets within a pre defined area in a reliable and accurate manner. (new text);

Option 2: A munition that fulfils a combination of precise criteria regarding its reliability and its accuracy;

"Carrier-container" means:

- (a) a conventional munition that may be artillery shell, air bomb, guided or un-guided missile or,
- (b) a dispenser, affixed to an aircraft, which is not designed to dispense direct-fire munitions,

"Explosive sub-munition" means a conventional explosive munition which is designed to separate from a cluster munition and is designed to detonate on, prior to or after impact.

"Reliable" cluster munitions means cluster munitions which contain explosive sub munitions of a dud rate below one percent and/or equipped with a self safe mechanism.

"Accurate" cluster munitions or explosive sub munitions are munitions which are effective only within a pre-defined target area.

"Self safe mechanism" means self destruct or self neutralization or self de-activation mechanism

This definition shall be reviewed no latter than five years after the entry into force of the convention as provided under article 12.2. The meeting of the parties should at its first session adopt a program of work on the pending questions regarding the definition. The review process shall examine a wide range of views, including academic and civil society technical reports.

SWITZERLAND

For the purposes of this Convention,

(...)

"Cluster Munition" means a carrier/container which contains explosive sub-munitions and is designed to disperse or release or eject these explosive sub-munitions.

It does not mean:

- (a) A munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) A munition or sub-munition designed to produce electrical, electronic or illuminating effects;

(c) A munition or sub-munition designed to engage a point target within a pre-defined area and contains a self-destruct, self-neutralization or self-deactivation mechanism;

"Carrier-container" means:

(a) a conventional munition that may be artillery shell, air bomb, guided or un-guided missile or,

(b) [OPTION 1] a dispenser, affixed, to an aircraft, which is designed to dispense multiple sub-munitions in a single act.

(b) [OPTION 2] a dispenser, affixed to an aircraft, which is not designed to dispense direct-fire munitions.

“Explosive sub-munition” means a conventional explosive munition which is designed to separate from a cluster munition and is designed to detonate on, prior to or after impact.

~~“Cluster munition victims” means persons who have suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their families and communities;~~

ICRC

For the purposes of this Convention:

"Cluster munition" means a munition that is designed to disperse or release explosive sub-munitions. It does not mean the following:

- a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- b) a munition or sub-munition designed to produce electrical or electronic effects;
- c) ...

"Explosive sub-munitions" means munitions that in order to perform their task are dispersed or released from a cluster munition and are designed to function by detonating an explosive charge prior to, on or after impact;

"Failed cluster munitions" means cluster munitions that have been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released their explosive submunitions but failed to do so;

"Unexploded explosive submunitions" means explosive submunitions which have been released dispersed or otherwise separated from a cluster munition and have failed to explode as intended;

"Cluster munition remnants" means failed cluster munitions, abandoned cluster munitions and unexploded explosive submunitions;

[The definitions of cluster munition victims, abandoned cluster munitions and transfer would remain unchanged.]

FRANCE / GERMANY

Alternative or additional definitions proposed for “cluster-munition remnants”:

“Unexploded sub-munition” means explosive sub-munition that has been primed, fused, armed, or otherwise prepared for use and used in an armed conflict. It may have been fired, dropped, launched or projected and should have exploded but failed to do so.

“Abandoned explosive cluster-munition” means explosive cluster-munition that has not been used during an armed conflict, that has been left behind or dumped by a party to an

armed conflict and which is no longer under control of the party that left it behind. Abandoned explosive cluster-munitions may or may not have been primed, fused, armed or otherwise prepared for use.

"Explosive remnants of cluster munitions" means unexploded sub-munitions and abandoned explosive cluster-munitions.

"Existing explosive remnants of sub-munitions" means unexploded submunitions and abandoned explosive cluster-munitions that existed prior to the entry into force of this Convention for the State party on whose territory exists.

UNITED KINGDOM

2.1. *For the purposes of this convention:*

a. *"Cluster munition" means a carrier-container which contains more than [x] conventional explosive sub-munitions and is designed to dispense conventional explosive sub-munitions over targets in a pre-defined area.*

b. *"Conventional Explosive Sub-munition" means a conventional explosive munition which is designed to separate from a cluster munition and which is designed to detonate on, prior to or after impact on a target.*

2.2 For the purposes of this convention, we need to consider the elements and characteristics that should exempt a submunition from a prohibition within specified reliability and accuracy benchmarks, including:

- a. Munitions which incorporate a failsafe system.
- b. Munitions which are direct fire weapons or which incorporate systems designed to deliver effects within a pre-defined area or on point targets.

2.3. We continue to support the following types of munitions remaining as exemptions: those designed to dispense flares, smoke, pyrotechnics or chaff. Smoke, flare, chaff or pyrotechnic munitions and those designed to produce electrical or electronic effects.

"Cluster Munition Victims" means any persons who have suffered physical or psychological injury or economic loss, caused by the use of cluster munitions; cluster munition victims include such persons directly impacted by cluster munitions.

PERU

For the purposes of this Convention:

"Cluster munition" means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;

- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) **a munition or sub-munition which has the technical characteristics that allow to limit the area affected and reduce the risk of UXO contamination;**

IRELAND

For the purposes of this Convention,

“Cluster munition victims” means persons who have suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions; cluster munition victims include those persons directly impacted by cluster munitions as well as their families and communities.

“Cluster munition” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- b) a munition or sub-munition designed to produce electrical or electronic effects;
- c) ..

“Explosive sub-munition” means a munition that in order to perform its task separates from a *cluster* munition and is designed to function by detonating an explosive charge prior to, on or after impact.

“Explosive bomblet” means a munition which in order to perform its task is dispersed or separated from a dispenser, affixed to an aerial platform, and is designed to function by detonating an explosive charge prior to, on or after impact.

“Failed cluster munition” means a cluster munition that has been fired, dropped, launched, projected or otherwise delivered and which should have dispersed or released its explosive submunitions but failed to do so;

“Unexploded explosive submunition” means an explosive submunition which has been released dispersed or otherwise separated from a cluster munition and has failed to explode as intended;

“Unexploded explosive bomblet” means an explosive bomblet which has been released, dispersed or otherwise separated from a dispenser, affixed to an aerial platform, and has failed to explode as intended;

“Cluster munition remnants” means *failed cluster munitions, abandoned cluster munitions, unexploded explosive submunitions and unexploded explosive bomblets;*

“Transfer” means the physical movement of cluster munitions into or from national territory or the transfer of title to or control over cluster munitions, but does not include the transfer of territory containing cluster munition remnants.

Note: proposed changes are in italics.

SWEDEN

a. Among the criteria to apply in order to exclude cluster munitions from the scope of the future convention one essential feature, in considering current and future munitions, is the existence of an electrical fail safe system which must embrace both self destruct (SD) and self-deactivation (SDA) mechanisms.

The rationale for electrical systems is that batteries always discharge and render the munitions inoperable in the self-deactivating phase.

b. In addition, we propose that cluster munitions with an internal guidance system - including sensors - to aid accuracy should be a prominent feature.

A and B shall also be cumulative criteria.

INDONESIA

“Cluster munitions areas mean areas which are dangerous due to the presence or suspected presence of cluster munitions’

ARTICLE 3 – STORAGE AND STOCKPILE DESTRUCTION

AUSTRALIA, DENMARK, FINLAND, FRANCE, GERMANY, ITALY, JAPAN, SLOVAKIA, SWEDEN, SWITZERLAND, UNITED KINGDOM

1. - 5. ...

6. *Exceptions (new text)*

Notwithstanding the general obligations under Article 1, the retention, acquisition or transfer of a limited number of cluster munitions and sub munitions for the development of and training in cluster munitions and sub munitions detection, cluster munitions and sub munitions clearance, or cluster munitions and sub munitions destruction techniques, or for the development of cluster munition counter-measures is permitted. The amount of these cluster munitions shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.

7. Transfer (ex para 6. rev.)

Notwithstanding the provisions of Article 1 (1), the transfer of cluster munitions for the purpose of destruction ***as well as for the purposes referred to in paragraph 6 of this article (new text)*** is permitted¹.

UNITED KINGDOM

1. Each State Party undertakes to remove all cluster munitions from stockpiles of munitions retained for potential use.

¹ Text on *testing, exercises and training* is new.

2. Each State Party undertakes to destroy or ensure the destruction of all cluster munitions under its jurisdiction or control, as soon as possible but not later than 10 years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods protect public health and the environment.

3. If a State Party believes that it will be unable to destroy or ensure the destruction of all cluster munitions referred to in paragraph 1 within that time period it may submit a request to a Meeting of the States Parties or a Review Conference for an extension of the deadline for completing the destruction of such cluster munitions for a further period of up to ten years.

4. Each request shall contain:

a) The duration of the proposed extension;

b) A detailed explanation of the reasons for the proposed extension, including the financial and technical means available to or required by the State Party for the destruction of all cluster munitions referred to in paragraph 1 of this Article; and

c) A plan for how and when stockpile destruction will be completed.

5. The meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 4 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.

6. Notwithstanding the provisions of Article 1, the retention, acquisition or transfer of a limited number of cluster munitions and sub-munitions for the development of and training in cluster munitions and sub-munitions detection, clearance or destruction techniques, or for the development of cluster munition counter-measures is permitted. The amount of cluster munitions and sub-munitions shall not exceed the minimum number absolutely necessary for the above mentioned purposes.

7. Notwithstanding the provisions of Article 1 the transfer of cluster munitions for the purpose of destruction as well as for testing, exercises and training in detection, cluster munitions and sub-munitions clearance or destruction techniques is permitted.

PERU

Each State Party undertakes to destroy or ensure the destruction of all cluster munitions under its jurisdiction or control as soon as possible but not later than **10** years after the entry into force of this Convention for that State Party. Each State Party undertakes to ensure that destruction methods comply with applicable international standards for protecting public health and the environment.

ARTICLE 4 – CLEARANCE AND DESTRUCTION OF CLUSTER MUNITION REMNANTS

IRELAND

Article 4 – Clearance and destruction of cluster munition remnants and risk reduction education

1. Each State Party undertakes to clear and destroy, or ensure the clearance and destruction of cluster munition remnants located in areas under its jurisdiction or control, as follows:

(a) Where cluster munition remnants are located in areas under its jurisdiction or control at the date of entry into force of this Convention for that State Party, such clearance and destruction shall be completed as soon as possible but no later than 5 years from that date.

(b) Where, after entry into force of this Convention for that State Party, cluster munitions have become cluster munition remnants located in areas under its jurisdiction or control, such clearance and destruction must be completed as soon as possible, but **no later than 5 years after the end of the active hostilities during which such cluster munitions became cluster munition remnants.**

(c) **Upon fulfilling either of the obligations set out in sub-paragraphs (a) and (b) of this paragraph, the relevant State Party shall make a declaration of compliance to the next Meeting of States Parties.**

2. In fulfilling the obligations set out in paragraph 1, each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

(a) Survey, assess and **record** the threat posed by cluster munition remnants, **making every effort to identify all areas under its jurisdiction or control in which cluster munitions remnants are known or suspected to be located;**

(b) Assess and prioritise needs and ~~practicability~~ in terms of marking, protection of civilians and clearance and destruction, take steps to mobilise resources and develop a national plan to carry out these activities, **building, where appropriate, upon existing structures, experiences and methodologies;**

(c) **Take all feasible steps to ensure that all cluster munition remnants located in areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. Warning signs based on methods of marking recognised by the affected community should be utilised in the marking of suspected hazardous areas. Signs and other hazardous area boundary markers should as far as possible be visible, legible, durable and resistant to environmental effects and should clearly identify which side of the marked boundary is considered to be within the area affected by cluster munition remnants and which side is considered to be safe;**

(d) Clear and destroy all cluster munition remnants located in areas under its jurisdiction or control; and

(e) Conduct risk **reduction** education to ensure awareness among civilians living in or around areas in which cluster munition remnants are located of the risks posed by such remnants.

3. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.

4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for it and have become cluster munition remnants, **that are** located in areas under the jurisdiction or control of another State Party at the time of entry into force of this Convention for the latter.

(a) In such cases, upon entry into force of this Convention for both States Parties, the former State Party shall provide, *inter alia*, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the UN system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants.

(b) Such assistance shall include, **where available**, information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.

5. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within that time period it may submit a request to a Meeting of States Parties, or a Review Conference, for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants, for a period of up to 5 years. **The requested period shall not exceed the minimum number of years strictly necessary to complete the obligations under paragraph 1 of this Article.**

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall contain:

a) The duration of the ~~proposed~~ **requested** extension;

b) A detailed explanation of the reasons for the proposed extension, including:

i) The preparation and status of work conducted under national clearance and demining programmes **during the initial five year period**;

ii) The financial and technical means available to, and required by, the State Party for the clearance and destruction of all cluster munition remnants **during the requested extension period**; and

iii) Circumstances that have impeded the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control

during the initial five year period, and those that may impede this ability during the requested extension period;

c) The humanitarian, social, economic, and environmental implications of the extension; and

d) Any other information relevant to the request for the proposed extension.

7. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period. **The States Parties may decide to grant a shorter extension period than that requested and may propose benchmarks for the extension period as appropriate.**

8. Such an extension may be renewed, **for a period of up to 5 years**, upon the submission of a new request in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

FRANCE/GERMANY

Article 4 – Clearance *removal or and destruction* of explosive remnants of cluster munitions (ERCM)

1. Each State party and party to an armed conflict shall bear the responsibilities set out in this Article with respect to all explosive remnants of cluster munitions in territory under its control. In cases where a user of cluster munitions which have become explosive remnants of cluster munitions, does not exercise control of the territory, the user shall, after the cessation of active hostilities, provide where feasible, inter alia, technical, financial, material or human resources assistance, bilaterally or through a mutually agreed third party, including inter alia through the United Nations system or other relevant organizations, to facilitate the marking and clearance, removal or destruction of such explosive remnants of cluster munitions.

2. Each State Party undertakes to / **Option 1** (Wellington text unchanged): clear and destroy, or ensure the clearance and destruction of / **Option 2: mark and clear, remove or destroy/ Explosive** Remnants of Cluster Munitions located in areas under its control, as follows:

a) Where, after entry into force of this Convention for that State Party, cluster munitions **used during an armed conflict** have become **explosive** remnants of cluster munitions located in areas under its /jurisdiction or/control, such clearance, **removal** or ~~and~~ destruction must be completed as soon as possible but no later than [x] years **after cessation of active hostilities** ~~after such cluster munitions became cluster munitions remnants.~~

b) Where **explosive** remnants **of** cluster munitions are located in areas under its [jurisdiction or] control at the date of entry into force of this Convention for that State Party, ~~such clearance and destruction shall be completed as soon as possible but~~

~~no later than 5 years from that date~~ **provisions of Paragraph/Article [x] shall apply to the clearance, removal or destruction of such explosive remnants of cluster munitions;**

3. In fulfilling the obligations set out in paragraph 4 **2a)**, each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

a) Survey and assess the threat posed by **explosive** remnants *of* cluster munitions;

b) Assess and prioritise needs and practicability in terms of marking, protection of civilians and clearance, **removal or** ~~and~~ destruction, take steps to mobilise resources and develop a national plan to carry out these activities;

c) Ensure that all **explosive** remnants *of* cluster munitions located in areas under its [jurisdiction on] control are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians. The marking shall at least be to the standards set out in the Protocol on **Explosive Remnants of War (Technical Annex) Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices**, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;

d) Clear, **remove or** ~~and~~ **destroy** all **explosive** remnants *of* cluster munitions located in areas under its [jurisdiction *or*] control; and

e) Conduct risk education to ensure awareness among civilians living in or around areas in which **explosive** remnants *of* cluster munitions are located of the risks posed by such remnants.

4. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.

~~(cf footnote 12 and section 2.2. infra p.6) 4. This paragraph shall apply in cases in which cluster munitions have been used or abandoned by one State Party prior to entry into force of this Convention for it and have become cluster munition remnants located in areas under the jurisdiction or control of another 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 both States Parties, the former State Party shall provide, inter alia, technical, financial, material or human resources assistance to the latter State Party, either bilaterally or through a mutually agreed third party, including through the UN system or other relevant organisations, to facilitate the marking, clearance and destruction of such cluster munition remnants. Such assistance shall include information on types and quantities of the cluster munitions used, precise locations of cluster munition strikes and areas in which cluster munition remnants are known to be located.~~

5. If a State Party believes that it will be unable to clear, **remove or** ~~and~~ **destroy** or ensure the clearance, **removal or** ~~and~~ destruction of all **explosive** remnants *of* cluster munitions referred to in paragraph **2a)** of this Article, within that time period, it may submit a request to a Meeting of the States Parties, or a Review Conference, for an extension of the

deadline for completing the clearance, **removal or** ~~and~~ destruction of such **explosive** remnants **of** cluster munitions, for a period of up to [x] years.

6. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 4 2a) of this Article for that State Party. Each request shall contain:

a) The duration of the proposed extension;

b) A detailed explanation of the reasons for the proposed extension, including:

- (i) The preparation and status of work conducted under national clearance ~~and demining~~ programmes;
- (ii) The financial and technical means available to, and required by, the State Party for the clearance, **removal or** ~~and~~ destruction of all **explosive** remnants **of** cluster munitions; and
- (iii) Circumstances that impede the ability of the State Party to **clear, remove or** destroy all **explosive** remnants **of** cluster munitions located in areas under its [jurisdiction or] control;

c) The humanitarian, social, economic, and environmental implications of the extension; and

d) Any other information relevant to the request for the proposed extension.

7. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of States Parties present and voting whether to grant the request for an extension period.

8. Such an extension may be renewed upon the submission of a new request in accordance with paragraphs 5, 6 and 7 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

UN MINE ACTION TEAM

Article 4 – Clearance and Destruction of Cluster Munition Remnants and Risk Reduction Education

Conduct risk reduction education among at-risk civilian populations living in or around areas in which cluster munition remnants are located, to prevent and reduce the number of casualties, in parallel with marking, fencing, warnings, clearance and stockpile destruction.

UNITED KINGDOM

1. After the cessation of active hostilities and as soon as feasible, each State Party undertakes to clear and destroy, or ensure the clearance and destruction of cluster munition remnants that pose a humanitarian threat located in areas under its jurisdiction or control, and shall complete such clearance no later than 10 years from the date of entry in to force of this convention for that State Party.

2. In fulfilling the obligations set out in paragraph 1, each State Party shall as soon as possible take the following measures, taking into consideration the provisions of Article 6 of this Convention regarding international cooperation and assistance:

- (a) Survey and assess the threat posed by cluster munition remnants;
- (b) Assess and prioritise needs and practicability in terms of marking, protection of civilians and clearance and destruction, take steps to mobilise resources and develop a national plan to carry out these activities;
- (c) Ensure to the maximum extent possible that all cluster munition remnants located in areas under its jurisdiction or control are perimeter-marked, monitored and protected by fencing or other means to ensure the effective exclusion of civilians. The marking shall at least be to the standards set out in the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended on 3 May 1996, annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;
- (d) To the extent possible clear and destroy sub-munition remnants that pose a humanitarian threat located in areas under its jurisdiction or control; and
- (e) Conduct risk education to ensure awareness among civilians living in or around areas in which cluster munition remnants are located of the risks posed by such remnants.

3. In conducting the above activities each State Party shall take into account international standards, including the International Mine Action Standards.

4. If a State Party believes that it will be unable to clear and destroy or ensure the clearance and destruction of all cluster munition remnants referred to in paragraph 1 of this Article within that time period it may submit a request to a Meeting of States Parties, or a Review Conference, for an extension of the deadline for completing the clearance and destruction of such cluster munition remnants, for a period of up to 10 years.

5. A request for an extension shall be submitted to a Meeting of States Parties or a Review Conference prior to the expiry of the time period referred to in paragraph 1 of this Article for that State Party. Each request shall contain:

- a) The duration of the proposed extension;
- b) A detailed explanation of the reasons for the proposed extension, including:
 - i) The preparation and status of work conducted under national clearance and demining programmes;
 - ii) The financial and technical means available to, and required by, the State Party for the clearance and destruction of all cluster munition remnants; and
 - iii) Circumstances which impede the ability of the State Party to destroy all cluster munition remnants located in areas under its jurisdiction or control;

c) The humanitarian, social, economic, and environmental implications of the extension; and

d) Any other information relevant to the request for the proposed extension.

6. The Meeting of the States Parties or the Review Conference shall, taking into consideration the factors contained in paragraph 6 of this Article, assess the request and decide by a majority of votes of States Parties present and voting whether to grant the request for an extension period.

7. Such an extension may be renewed upon the submission and assessment of a new request in accordance with paragraphs 4, 5 and 6 of this Article. In requesting a further extension period a State Party shall submit relevant additional information on what has been undertaken in the previous extension period pursuant to this Article.

CMC

Article 6(2): Add the phrase “and particularly user states” after “each State Party”

ITALY

Delete article 4.4

ARTICLE 5 – VICTIM ASSISTANCE

SWITZERLAND

1. Each States Party with respect to ~~cluster munition~~ victims in areas under its jurisdiction or control shall, in accordance with applicable international human rights ~~law standards~~, adequately provide for the access and quality of their medical care and rehabilitation, psychological support and social and economic ~~inclusion~~ reintegration as well as a participatory inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to ~~cluster munition victims~~ all victims in global and already existing data collection system if available.

2. In fulfilling its obligation under paragraph 1 of this Article each State Party shall take into consideration relevant guidelines and good practices in the areas of medical care and rehabilitation, psychological support as well as social and economic inclusion and the practices and frameworks developed to assist the victims in the context of other multilateral disarmament/arms control instruments.

3. In fulfilling its obligations under paragraph 1, each State Party shall endeavour to enhance in the most efficient and effective way existing State responses to the medical care and rehabilitation, psychological support and social and economic inclusion needs of its population, including cluster munition victims and other persons with disabilities.

4. In fulfilling its obligations under paragraph 1, each State Party shall ensure that there is no discrimination between cluster munition victims and those who have suffered injuries or who live with disabilities resulting from other circumstances.

ICRC

2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall make no distinction with respect to other victims of armed conflict on any grounds other than medical ones or the rehabilitative, psychological or social-economic needs of the victim. States Parties shall also endeavour to implement the relevant professional guidelines and best practices in the care, treatment, support and socio-economic inclusion of victims.

UNITED KINGDOM

1. Each State Party with respect to cluster munitions victims injured in its own territory shall, in accordance with national laws and practices, provide for their medical care and treatment. Each State Party shall make every effort to collect reliable relevant data with respect to victims of cluster munitions.

2. In fulfilling its obligation under paragraph 1 of this Article each State Party shall ensure that the measures adopted are in accordance with fundamental human rights principles, including non-discrimination, and shall take into consideration relevant guidelines and good practices in the areas of medical care and treatment.

UN MINE ACTION TEAM

1. Each State Party with respect to **all** victims of cluster munitions in areas under its jurisdiction or control shall, in accordance with applicable international human rights standards, adequately provide **age- and gender-appropriate** medical care and rehabilitation, psychological support, **personal mobility** and social and economic inclusion. Each State Party should make every effort to collect reliable relevant data with respect to victims of cluster munitions.

2. In fulfilling its obligation under paragraph 1 of this Article, each State Party shall endeavour to implement the relevant professional guidelines and best practices in the **provision of age- and gender-appropriate** medical care and rehabilitation, psychological support, **personal mobility**, as well as social and economic inclusion.

ARTICLE 6 – INTERNATIONAL COOPERATION AND ASSISTANCE**DENMARK, FRANCE, GERMANY AND SWEDEN**

9. bis (new) Each State Party that receives assistance shall take all appropriate measures in order to facilitate the timely and effective implementation thereof, including by collecting and releasing all relevant data and information, by granting favourable entry and visa regimes for international personnel involved in assistance programmes, and by ensuring the unimpeded import of relevant material and equipment free of financial and administrative burdens.

UNITED KINGDOM

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance, where feasible, from other States Parties to the extent possible.

2. Each State Party in a position to do so shall provide technical, material and financial assistance to States Parties affected by cluster munitions, aimed at the implementation of the obligations of this Convention. Such assistance may be provided, *inter alia*, through the United Nations system; international, regional or national organisations or institutions, non-governmental organisations or institutions, or on a bilateral basis.

3. Each State Party undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, and scientific and technological information concerning the implementation of this Convention. The States Parties shall not impose undue restrictions on the provision of clearance equipment and related technological information for humanitarian purposes.

4. In addition to any obligations it may have pursuant to Article 4, paragraph 4, Each State Party in a position to do so shall provide assistance for clearance of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact of clearance of cluster munition remnants and related activities.

5. Each State Party in a position to do so shall provide assistance for the destruction of stockpiled cluster munitions, and shall also provide assistance to identify, assess and prioritise needs and practical measures in terms of marking, risk education, protection of civilians and clearance and destruction as provided in Article 4.

6. Where, after entry into force of this Convention, cluster munitions have become cluster munition remnants located in areas under the jurisdiction or control of a State Party, each State party in a position to do so, shall urgently provide emergency assistance to the affected State Party.

7. Each State Party in a position to do so shall provide assistance for medical care, rehabilitation and psychological support, social and economic inclusion of all victims of cluster munitions. Such assistance may be provided, *inter alia*, through the United Nations System, international, regional or national organisations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organisations, or on a bilateral basis.

8. Each State Party in a position to do so may contribute to relevant trust funds, in order to facilitate the provision of assistance under this Article.

9. Each State Party may, with the purpose of developing a national action plan, request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental institutions to assist its authorities to determine, *inter alia*:

- a) The nature and extent of cluster munition remnants located in areas under its jurisdiction or control;
- b) The financial, technological and human resources required for the implementation of the plan;
- c) The time estimated as necessary to clear all cluster munition remnants located in areas under its jurisdiction or control;

d) Risk education programmes and awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;

e) Assistance to victims from cluster munitions; and

f) The coordination relationship between the Government of the concerned State Party and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the plan.

10. States Parties giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programmes.

ITALY

4. ~~In addition to any obligations it may have pursuant to paragraph 4 of Article 4 of this Convention,~~ Each State Party in a position to do so shall provide assistance for clearance of cluster munition remnants and information concerning various means and technologies related to clearance of cluster munitions, as well as lists of experts, expert agencies or national points of contact on clearance of cluster munition remnants and related activities.

ARTICLE 7 – TRANSPARENCY MEASURES

AUSTRALIA, DENMARK, FRANCE, GERMANY, ITALY, SWEDEN, SWITZERLAND, UNITED KINGDOM

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party on:

a) - m)

n) the total number, types and locations of cluster munitions kept under the provisions of Article 3, Paragraph 6. (new text)

UNITED KINGDOM

1. Each State Party shall report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than 180 days after the entry into force of this Convention for that State Party on:

a) The national implementation measures referred to in Article 9;

b) The total of all stockpiled cluster munitions owned or possessed by it, or under its jurisdiction or control, to include a breakdown of their type, quantity and, if possible, lot numbers of each type;

c) To the extent possible, all other cluster munitions that are stockpiled on its territory;

d) The technical characteristics of each type of cluster munitions produced, to the extent known, and those currently owned or possessed by a State Party, giving,

where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information which may facilitate the clearance of cluster munition remnants;

e) To the extent possible, the location of all areas that contain, or are suspected to contain, cluster munition remnants, under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munitions in each affected area and when they were used;

f) The status of programmes for the conversion or de-commissioning of production facilities for cluster munitions;

g) The status of programmes for the destruction, in accordance with Article 3, of cluster munitions, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;

h) The types and quantities of cluster munitions destroyed in accordance with Article 3, including details of the methods of destruction used, the location of the destruction sites and the applicable safety and environmental standards observed;

i) Stockpiles discovered after reported completion of the programme referred to in paragraph 7h;

j) The types and quantities of all cluster munitions remnants cleared and destroyed in accordance with Article 4, after the entry into force of this Convention for that State Party, to include a breakdown of the quantity of each type of cluster munitions remnants cleared and destroyed;

k) The measures taken to provide risk education and, in particular, an immediate and effective warning to civilians living in areas under its jurisdiction or control in which cluster munition remnants are located; and

l) The measures taken in accordance with the provisions of Article 5 to adequately provide for the medical care and rehabilitation, psychological support and social and economic inclusion of victims of cluster munitions as well as to collect reliable relevant data.

m) In addition, each State Party shall provide the name and contact details of the institutions mandated to provide information as described in this Article and of the institutions mandated to carry out the measures described in this Article.

n) The total number, types and locations of cluster munitions kept under the provisions of Article 3, paragraph 6.

2. The information provided in accordance with this Article shall be updated by the States Parties annually, covering the previous calendar year, and reported to the Secretary-General of the United Nations not later than 30 April of each year.

3. The Secretary-General of the United Nations shall transmit all such reports received to the States Parties.

ARTICLE 8 – FACILITATION AND CLARIFICATION OF COMPLIANCE

UNITED KINGDOM

1. The States Parties agree to consult and cooperate with each other regarding the implementation of the provisions of this Convention, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under this Convention.

2. If one or more States Parties wish to clarify and seek to resolve questions relating to a matter of compliance with the provisions of this Convention by another State Party, it may submit, through the Secretary-General of the United Nations, a Request for Clarification of that matter to that State Party. Such a request shall be accompanied by all appropriate information. Each State Party shall refrain from unfounded Requests for Clarification, care being taken to avoid abuse. A State Party that receives a Request for Clarification shall provide, through the Secretary-General of the United Nations, within 28 days to the requesting State Party all information that would assist in clarifying the matter.

3. If the requesting State Party does not receive a response through the Secretary-General of the United Nations within that time period, or deems the response to the Request for Clarification to be unsatisfactory, it may submit the matter through the Secretary-General of the United Nations to the next Meeting of the States Parties. The Secretary-General of the United Nations shall transmit the submission, accompanied by all appropriate information pertaining to the Request for Clarification, to all States Parties. All such information shall be presented to the requested State Party which shall have the right to respond.

4. Pending the convening of any meeting of the States Parties, any of the States Parties concerned may request the Secretary-General of the United Nations to exercise his or her good offices to facilitate the clarification requested.

5. Where a matter has been submitted to it pursuant to paragraph 3 the Meeting of the States Parties shall first determine whether to consider that matter further, taking into account all information submitted by the States Parties concerned. If it does so determine the Meeting of the States Parties may suggest to the States Parties concerned ways and means further to clarify or resolve the matter under consideration, including the initiation of appropriate procedures in conformity with international law. In circumstances where the issue at hand is determined to be due to circumstances beyond the control of the requested State Party, the Meeting of the States Parties may recommend appropriate measures, including the use of cooperative measures referred to in Article 5. *[Add references from Ottawa Convention Articles 8(6) and 8(19) with regard to special meetings, fact finding missions and the mechanism for reaching decisions at States Parties meetings.]*

ARTICLE 9 – NATIONAL IMPLEMENTATION MEASURES

ARTICLE 10 – SETTLEMENT OF DISPUTES**UNITED KINGDOM**

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the States Parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to the Meeting of the States Parties and referral, **by mutual consent**, to the International Court of Justice in conformity with the Statute of the Court.

2. The Meeting of the States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time-limit for any agreed procedure.

ARTICLE 11 – MEETINGS OF STATES PARTIES**ARTICLE 12 – REVIEW CONFERENCES****ARTICLE 13 – AMENDMENTS****ARTICLE 14 – COSTS****UNITED KINGDOM**

1. The costs of the Meetings of the States Parties, the Review Conferences and the Amendment Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Articles 6, 7 and 8 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

ARTICLE 15 – SIGNATURE**ARTICLE 16 – RATIFICATION, ACCEPTANCE, APPROVAL OR
ACCESSION**

ARTICLE 17 – ENTRY INTO FORCE

1. This Convention shall enter into force on the first day of the sixth month after the month in which the 40th instrument of ratification, acceptance, approval or accession has been deposited.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the 40th instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the sixth month after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

ARTICLE 18 – PROVISIONAL APPLICATION

GERMANY

1. *Any State may at the time of its ratification, acceptance, approval or accession declare that, while implementing the prohibitions on cluster munitions prohibited under Article 1, it will continue to use no more than [x] types of cluster munitions for a limited period of time not exceeding [y] years from the entry into force of this Convention; such munitions must be reliable and accurate as defined in Article 2, and they must be equipped with a self-destruct, self-neutralization or self-deactivation system.*
2. *Any use of cluster munitions pursuant to Paragraph 1 shall be in compliance with the provisions of International Humanitarian Law. In particular, it is prohibited in all circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by cluster munitions.*
3. *During the transition period pursuant to Paragraph 1, the State Party concerned shall not, under any circumstances, transfer to anyone, directly or indirectly, any cluster munitions.*
4. *The provisions under Paragraph 1 are subject to the following transparency measures by the State Party concerned:*
 - (a) *The declaration under Paragraph 1 shall be notified to the Secretary General of the United Nations at the time of ratification, acceptance, approval or accession by the State Party concerned. It shall include details of the type of cluster munitions including on its reliability and accuracy as well as its self-destruct/self-neutralisation/self-deactivation features, the quantity, the deadline for removal from service, the beginning of the phasing out of operational stocks and the completion of the destruction process.*
 - (b) *The provisions on Transparency Measures under Article 7, including on annual reporting, shall also apply to the issues contained in the declaration under Paragraphs 1 and 4 (a) of this Article.*

ARTICLE 19 – RESERVATIONS

ARTICLE 20 - DURATION AND WITHDRAWAL

ARTICLE 21 – DEPOSITARY

ARTICLE 22 – AUTHENTIC TEXTS

ADDITIONAL TEXT PROPOSALS

FRANCE/GERMANY

2.2. Additional provisions on assistance with respect to Explosive Remnants of cluster-munitions existing prior to the entry into force of the Convention:

Such a provision could be included in article IV or preferably in article VI 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.

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.

AUSTRALIA, CANADA, DENMARK, FINLAND, FRANCE, GERMANY, ITALY, JAPAN, NETHERLANDS, UNITED KINGDOM

The following text captures the proposed suggestion presented by the Netherlands during discussions on Final Provisions and proposed for inclusion in the Compendium to be attached to, and which is understood to have equal status with, the Draft Convention as follows:

Article XX: Relationship with Other International Agreements

This Convention shall be considered as complementary to any existing international agreement binding on the Parties.

CANADA

To be included either as a separate article, in the final articles, or within article 1.

Notwithstanding any other provision of this Convention, a State, on becoming a party to this Convention, may declare that, for a period of [XX] years after the entry into force of this Convention for the State concerned, it does not accept the application of Article 1(c) with respect to its participation in combined operations and activities with non-party states. A declaration under this article may be withdrawn at any time. During the period in which a declaration under this article remains in force, the State concerned shall take steps to encourage the government of any non-party state participating in such combined operations and activities to ratify this Convention.

SWITZERLAND

New Article: Transition period

(a) At the time of its notification of consent to be bound by this treaty, a High Contracting Party may opt for a transition period not exceeding [X] years to progressively replace the munitions described under Article 2 of this treaty but that are equipped with a self-destruct, self-neutralization or self-deactivation system, by another type of weapon/munitions in conformity with this treaty and the principles of international humanitarian law.

(b) Transition periods are not allowed for munitions described under Article 2 of this treaty which are not equipped with a self-destruct, self-neutralization or self-deactivation system.

(c) During this transition period, the High Contracting Party shall not, under any circumstances, transfer to anyone, directly or indirectly, those prohibited munitions mentioned in paragraph (a).

(d) During this transition period, the High Contracting Party is allowed for training purposes, as last resort or in the case of self-defence to use those prohibited munitions mentioned in paragraph (a) if those have not been replaced yet and in conformity with the principles of international humanitarian law.

Note: a further provision prohibiting the use of the munitions mentioned in paragraph (a) against military objectives located in or near populated areas could be added. In this respect, inspiration could be drawn from Protocol III to the CCW on the Use of Incendiary Weapons.