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*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, which *inter alia* include the persons directly affected, their families and communities,

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

*Bearing in mind* the Convention on the Rights of Persons with Disabilities which, *inter alia*, requires that States Parties to this Convention undertake to ensure and promote the full realization 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 to adequately coordinate efforts undertaken in various fora to address the rights and needs of victims of various types of weapons

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## **Article 1 – General obligations and scope of application**

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.

## **Article 2 – Definitions**

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) ...
- (b) ...
- (c) ...

**“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 immediately after impact.

**“Unexploded cluster munitions”** means cluster munitions that have been primed, fused, armed, or otherwise prepared for use and used. They may have been fired, dropped, launched or projected, and should have exploded but failed to do so.

**“Abandoned cluster munitions”** means cluster munitions that have not been used and that have been discarded or dumped, and that are no longer under the control of the party that discarded or dumped them. Abandoned cluster munitions may or may not have been prepared for use.

**“Cluster munition remnants”** means unexploded cluster munitions and abandoned cluster munitions.

**“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.

### **Article 3 – Storage and Stockpile Destruction**

1. Each State Party undertakes to separate cluster munitions from stocks for potential use and keep them in separate stockpiles for the purpose of destruction.

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 six 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.

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 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;

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 transfer of cluster munitions for the purpose of destruction is permitted.

## Article 4 – Clearance and Destruction of Cluster Munition Remnants

1. Each State Party undertakes to clear and destroy or ensure the clearance and destruction of cluster munition remnants existing prior to entry into force of this Convention, in areas under its jurisdiction or control, as soon as possible but not later than 5 years after the entry into force of this Convention for that State Party.

2. As soon as feasible after entry into force of this Convention, each State Party that has been affected in the past or may be affected in the future by cluster munition use shall 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 and take steps to mobilise resources to carry out these activities.

(c) ensure that all cluster munition remnants in such 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) clear and destroy all cluster munition remnants within its jurisdiction.

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

4. Where cluster munition remnants were delivered by a State Party before entry into force of this Convention to territory now under the jurisdiction or control of another State Party to this Convention, the former State Party shall provide bilaterally, *inter alia*, technical, financial, material or human resources assistance to facilitate the marking, clearance and destruction of such cluster munition remnants.

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 the 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.

6. 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 the cluster munition remnants in contaminated areas;
- 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.

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.

#### **Article 5 – Victim Assistance**

(1) Each State Party with respect to victims of cluster munitions in areas under its jurisdiction or control shall, in accordance with applicable international human rights standards, adequately provide for their medical care and rehabilitation, psychological support 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 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.

#### **Article 6 – International Cooperation and Assistance**

1. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.

2. All States Parties 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 organizations or institutions, non-governmental organizations 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. Each State Party in a position to do so and in particular a State Party that has used cluster munitions on the territory of another State Party, 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 clearance and destruction of stockpiled cluster munitions.

6. Each State Party in a position to do so shall provide assistance to State Parties affected by the use of cluster munitions to identify, assess and prioritize needs and practical measures in terms of marking, protection of civilians and clearance and destruction as provided in Article 4.

7. States Parties may, with the purpose of developing a national action programme, 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 extent and scope of the contamination of cluster munition remnants;
- b) The financial, technological and human resources required for the implementation of the program;
- c) The estimated number of years necessary to clear all cluster munitions remnants in contaminated areas under the jurisdiction or control of the concerned State Party;
- d) Awareness activities to reduce the incidence of injuries or deaths caused by cluster munition remnants;
- e) Assistance to victims from cluster munitions;
- 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 program.

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

9. 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.

10. Each State Party 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 programs.

### **Article 7 – Transparency Measures**

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 programs for the conversion or de-commissioning of production facilities for cluster munitions;
- g) The status of programs 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 all cluster munitions 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 cleared and destroyed; and
  - i) The measures taken to provide an immediate and effective warning to the population in relation to all areas identified to be contaminated by cluster munition remnants.
  - j) 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.
  - k) 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.
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**

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.

6. In addition to the procedures provided for in paragraphs 2 to 5 of this Article the Meeting of States Parties may decide to adopt such other general procedures for clarification and resolution of instances of non-compliance with the provisions of this Convention as it deems appropriate.

### **Article 9 – National Implementation Measures**

Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken anywhere by natural persons possessing its nationality, or by any natural or legal person anywhere on its territory or in any other place under its jurisdiction or control.

### **Article 10 – Settlement of Disputes**

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 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**

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the interpretation, application or implementation of this Convention, including:

- a) The operation and status of this Convention;
- b) Matters arising from the reports submitted under the provisions of this Convention;
- c) International cooperation and assistance in accordance with Article 6;
- d) The development of technologies to clear cluster munition remnants;
- e) Submissions of States Parties under Articles 8 and 10;
- f) Submissions of States Parties as provided for in Articles 3 and 4.

2. The First Meeting of the States Parties shall be convened by the Secretary-General of the United Nations within one year of entry into force of this Convention. The subsequent Meetings shall be convened by the Secretary-General of the United Nations annually until the first Review Conference.

3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend these Meetings as observers in accordance with the agreed Rules of Procedure.

## **Article 12 – Review Conferences**

1. A Review Conference shall be convened by the Secretary-General of the United Nations five years after the entry into force of this Convention. Further Review Conferences shall be convened by the Secretary-General of the United Nations if so requested by one or more States Parties, provided that the interval between Review Conferences shall in no case be less than five years. All States Parties to this Convention shall be invited to each Review Conference.

2. The purpose of the Review Conference shall be:

- a) To review the operation and status of this Convention;
- b) To consider the need for and the interval between further Meetings of the States Parties referred to in paragraph 2 of Article 11;
- c) To take decisions on submissions of States Parties as provided for in Articles 3 and 4.

3. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Review Conference as observers in accordance with the agreed Rules of Procedure.

### **Article 13 – Amendments**

1. At any time after its entry into force any State Party may propose amendments to this Convention. Any proposal for an amendment shall be communicated to the Depositary, who shall circulate it to all States Parties and shall seek their views on whether an Amendment Conference should be convened to consider the proposal. If a majority of the States Parties notifies the Depositary no later than 30 days after its circulation that they support further consideration of the proposal, the Depositary shall convene an Amendment Conference to which all States Parties shall be invited.

2. States not parties to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend each Amendment Conference as observers in accordance with the agreed Rules of Procedure.

3. The Amendment Conference shall be held immediately following a Meeting of the States Parties or a Review Conference unless a majority of the States Parties requests that it be held earlier.

4. Any amendment to this Convention shall be adopted by a majority of two-thirds of the States Parties present and voting at the Amendment Conference. The Depositary shall communicate any amendment so adopted to the States Parties.

5. An amendment to this Convention shall enter into force for all States Parties to this Convention that have accepted it upon deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

### **Article 14 – Costs**

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 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**

This Convention, done at (...), on (...), shall be open for signature at (...), by all States from (...) until (...), and at the United Nations Headquarters in New York from (...) until its entry into force.

### **Article 16 – Ratification, Acceptance, Approval or Accession**

1. This Convention is subject to ratification, acceptance or approval of the Signatories.
2. It shall be open for accession by any State that has not signed the Convention.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

### **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 20<sup>th</sup> 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 20<sup>th</sup> 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**

Any State may at the time of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 1 of this Convention pending its entry into force.

### **Article 19 – Reservations**

The Articles of this Convention shall not be subject to reservations.

### **Article 20 - Duration and Withdrawal**

1. This Convention shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention. It shall give notice of such withdrawal to all other States Parties, to the Depositary and to the United Nations Security Council. Such instrument of withdrawal shall include a full explanation of the reasons motivating withdrawal.
3. Such withdrawal shall only take effect six months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that six-month period, the withdrawing State Party is engaged in an armed conflict, the withdrawal shall not take effect before the end of the armed conflict.
4. The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligations assumed under any relevant rules of international law.

### **Article 21 – Depositary**

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

### **Article 22 – Authentic Texts**

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

## EXPLANATORY ANNEX

### Article 1: General obligations and scope of application

Within the framework of the current phrasing on general obligations and scope, it should be noted that at the Lima meeting, some States proposed that specific provision needed to be made for military interoperability with non States Party.

### Article 2: Definitions

At the Lima Meeting there appeared to be broad agreement that landmines would be excluded from the definition of “cluster munition” since they are already covered by other treaties. Some States also proposed that one or more of the following should be excluded: flare, smoke and chaff munitions and sub-munitions that are inert post impact. There were other proposals to exclude sub-munitions that aim, detect and engage point targets, and some States proposed to exclude cluster munitions which contain fewer than a specified number of explosive sub-munitions, sub-munitions with self destruct or self deactivation or other failsafe mechanisms, explosive sub-munitions with a tested failure rate of less than a specified percentage, and that the age of the sub-munition should be relevant. Some other States opposed some or all of these elements, with some proposing a comprehensive prohibition on all cluster munitions.

### Article 3: Stockpile Destruction

At the Lima Meeting some delegations raised the possibility of permitting the retention of cluster munitions (or sub-munitions) to facilitate the development of clearance and disposal capabilities. Other delegations expressed the view that such retention was neither necessary nor justified. A range of views was expressed as to the time-frame that should be permitted for stockpile destruction.