

## **Issues and Recommendations for the Second Conference on Protocol V**

### **Landmine Action**

**10 November 2008**

Landmine Action welcomes recent steps forward on the implementation of Protocol V and further progress during the Second Conference of High Contracting Parties. As an emergent international instrument, it is a critical time in the development of the Protocol. The Second Conference of High Contracting Parties to Protocol V from 10-11 November 2008 affords High Contracting Parties an opportunity to strengthen and promote normative understandings on the Protocol's implementation and its universalization.

Protocol V has an important role to play in the CCW framework. However, the often ambiguous legal language and numerous qualifiers contained in Protocol V may impede realization of the intent and purpose of the Protocol to minimize the risks and effects of ERW and to protect civilians against weapons which cause post-conflict effects. Therefore, it is of the utmost importance for High Contracting Parties to demonstrate their commitment to the aims of the Protocol and to its implementation in good faith.

The universalization of the protocol and its full implementation can make a substantive difference on the ground and in furthering international norms on States' responsibilities for the protection of civilians during and after armed conflicts and against weapons which leave post-conflict effects.

### **Year in Review**

In preparation for the Second Conference, important work was carried out during the Meeting of Experts, from 2-4 July 2008, including thematic discussions on clearance, national reporting, the generic electronic template, requests for cooperation and assistance, establishing an ERW database, generic preventive measures, and victim assistance. As a result of discussions, High Contracting Parties are now in a position to take decisions on the following: adopting a revised generic electronic template; adopting a revised template for requests for assistance; adopting a Plan of Action on victim assistance; the revision of national reporting forms; improving practices on generic preventive measures; and the establishment of an enhanced ERW database. The Second Conference also provides States Parties with a valuable opportunity to share information on and strengthen understandings of national practices and to promote high standards for implementation and encourage the universalization of the Protocol.

Over the course of the year following the First Conference, the number of High Contracting Parties increased from 35 to 48. In July, 6 other States Parties announced their intent to ratify Protocol V before the Second Conference.

As universalization increases, during the Second Conference, High Contracting Parties to Protocol V have the chance, as one delegation remarked in the July 2008 Meeting of Experts, 'to create a culture

of implementation.' In that light, Landmine Action would like to propose the following recommendations for discussion and decision during the Second Conference:

### **Reporting obligations**

National reporting is an essential mechanism for effective implementation of international legal instruments and plays a particularly important role in developing the normative standards of compliance under Protocol V. The Second Conference of High Contracting Parties should further develop the national reporting mechanism previously established to improve the consistency and clarity of reporting. Review and development of the national reporting forms should not be delayed until the Third Conference. It should be undertaken at the earliest possible time so as to encourage better State reporting practices in the 2009 submission of national reports.

Landmine Action's recommendations for improving the reporting templates to elicit the level of detail required to foster common understandings on the implementation of Protocol V's provisions were circulated during the July Meeting of Experts and are currently available on the CCW Conference website. The necessity of revising the reporting format, as well as the need for a greater effort by High Contracting Parties to provide meaningful and detailed information in their national reports, was clearly demonstrated in the first round of reporting obligations. A significant number of High Contracting Parties failed to submit reports before their respective deadlines and overall the reports received failed to provide the level of detail necessary to assess compliance and implementation of Protocol V.

High Contracting Parties should make the revision of the national reporting forms a priority during the Second Conference and aim to adopt a template which elicits in-depth responses, while reaffirming their commitment to collect and provide comprehensive information in these annual reports.

### **Victim Assistance**

A recent report from the Coordinator on Victim Assistance presents High Contracting Parties with a Plan of Action on Victim Assistance under Protocol V. The Plan of Action is an innovative and important step forward towards implementing provisions for victim assistance.

Landmine Action calls on High Contracting Parties to adopt the Plan of Action during the Second Conference. Landmine Action strongly supports the proposals of several delegations made during the Meeting of Experts that the Plan of Action on Victim Assistance for Protocol V should be applied to the CCW framework as a whole, to address, in a non-discriminatory way, the needs of victims of all types of weapons covered by the CCW. During the Second Conference, States Parties should further consider the recommendation by the Coordinator "to consider the possibility and feasibility of relating the question of victim assistance also to victims of other weapons regulated by the CCW," as well as the coordination of victim assistance responsibilities and activities within the CCW with victim assistance obligations and efforts under other fora, such as the anti-personnel Mine Ban Treaty and the Convention on Cluster Munitions.

While the Plan of Action can serve to be an effective political tool to extend and improve the provision of victim assistance, High Contracting Parties' obligations to provide victim assistance are legally binding under Protocol V and should be viewed as expressions of fundamental responsibilities of State sovereignty.

## **Generic Preventive Measures**

Landmine Action appreciates the critical approach taken by the Coordinator and the engagement of several delegations on the issue of generic preventive measures during the July Meeting of Experts.

Generic preventive measures as outlined in the Technical Annex of Protocol V, if implemented, can play a critical role in preventing ERW and accidents occurring from poorly stored stockpiled ammunition. Yet this important aspect of Protocol V is one of the most overlooked and under-reported. Many High Contracting Parties omitted to include any information on generic preventive measures in their national reports or chose to report "Not Applicable." As the Coordinator noted, the majority, if not all, of these States undoubtedly have procured and stockpile weapons with a potential to cause ERW or accidents, and should thus report on practices aimed to prevent such occurrences.

States that have taken national measures, and measures as part of international processes, to prohibit or limit the use, production, stockpiling or transfer of cluster munitions should report such actions as part of their generic preventative measures. These actions bear upon the overall risk of national stockpiles creating an ERW hazard either now or in the future.

The generic preventive measures outlined in the Technical Annex are essential measures towards the prevention of future ERW and should be viewed as a critical component of the Protocol. The Discussion Paper circulated by France in July presents a good basis for exchanging information on best practices. However, High Contracting Parties should be encouraged to take stronger steps towards developing understandings and establishing practices which foster a compulsory attitude towards the implementation and reporting on generic preventive measures.

High Contracting Parties should revisit the suggestion made during the July Meeting of Experts to revise the national reporting form on generic preventive measures (Form G) to reflect the five topics (munitions manufacturing, munitions management, training, transfer and future production) included in Technical Annex 3 to stimulate Parties to provide a greater level of detail on their national practices.

## **Template Format for Requests for assistance and donor activities**

Important progress was made during the July Meeting of Experts on the issue of cooperation and assistance and requests for assistance. The information requested in the proposed template for requests for assistance will facilitate the ability of affected States to communicate their needs and allow donors to specifically target assistance with a view to measurable results.

Progress was made on the revision and streamlining of the template format for requests for assistance during the Meeting of Experts. The current streamlined template is an improvement on earlier versions. However, Landmine Action has concerns that the dense narrative series of questions contained in the revised version may lend an optional feel to the specific questions and may lead to omissions and less detailed responses. High Contracting Parties should make every effort to provide the greatest level of detail and specificity in preparing their requests.

In recent weeks, the trial database for requests for assistance within the CCW website has become operational. One request has been submitted and made publicly available on the website. The first request from the government of Serbia contains considerable detail and is a valuable starting point for the implementation of this mechanism. Landmine Action encourages other affected States to prepare and submit requests and urges potential donors to review and respond accordingly to begin, as soon as possible, the operationalization of the mechanism for cooperation and assistance..

In conjunction with discussions on cooperation and assistance, Landmine Action urges High Contracting Parties to emphasize the role of Protocol V to address existing ERW. If Protocol V is to make a meaningful impact towards minimizing the risks and effects of ERW, High Contracting Parties should explicitly state during the Second Conference their recognition of Protocol V as an operational forum to address existing ERW, the impact of ERW on affected countries, and the needs and requirements for clearance and victim assistance related activities for existing ERW, as encouraged by the ICRC in July.

#### **Proposals for a new electronic database (WISP.V)**

If High Contracting Parties decide to create a new electronic database for Protocol V, care should be taken to ensure the database has added value beyond the existing CCW website services and to ensure that the limited human and financial resources available are applied where most effective. An interactive database designed to match information provided in the requests for assistance and cooperation template form with donor resources could serve as a good resource mobilization tool.

#### **Generic Electronic Template**

Landmine Action also welcomes progress made on the consideration and revision of the Generic Electronic Template. The provision of accurate and timely information on the types, quantities, location and coordinates of both targeted and suspected areas of impact of weapons used during conflicts is essential for effective clearance. In the absence of such data, vital time and resources are wasted in clearance operations, putting civilian lives at increased risk.

High Contracting Parties should agree to adopt a template format during the Second Conference which includes concrete geographical, quantitative and qualitative technical data on both unexploded and abandoned ordnance. The reporting template should require the greatest level of detail possible.

High Contracting Parties should make improvements to the template to clarify recording obligations on the quantity of munitions used and geographical coordinates required.

In consideration of the content of the template, Landmine Action encourages High Contracting Parties to make reference to the survey already prepared by the GICHD on the information requirements considered necessary by clearance organizations (*GICHD, 2003, Explosive Remnants of War – Information Requirements*) and recommendations made by UNMAS during the Meeting of Experts.

While Landmine Action welcomes the widespread support for the adoption of the generic electronic template expressed during the Meeting of Experts, Landmine Action is concerned that the generic electronic template may fail to set clear standards for the transmission of information on the use and or abandonment of explosive ordnance by High Contracting Parties. Forms A-E under Part A of the template only pertain to the recording and retaining of information, and may be adapted nationally. While Landmine Action strongly encourages the development and improvement of mechanisms for the recording and retaining of information on a national level and recognizes the need for flexibility to adapt to national practices, High Contracting Parties must also develop rigorous and clear standards for the transmission of information in accordance with the fundamental objective of Article 4. High Contracting Parties should also consider developing understandings on expectations regarding acceptable timeframes for the rapid transmission of information.

## **Conclusion**

Landmine Action looks forward to continuing progress towards the further development and implementation of Protocol V during the Second Conference of High Contracting Parties. Landmine Action urges High Contracting Parties to increase their efforts to achieve a common consensus on a high standard for the implementation of the Protocol in order to foster concrete and effective results on the ground and to ensure Protocol V will function as a relevant instrument of international humanitarian law.