

**GROUP OF GOVERNMENTAL EXPERTS OF THE  
HIGH CONTRACTING PARTIES 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**

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Item 6 of the Agenda  
Cluster munitions**

**COMPILATION OF INPUTS FROM DELEGATIONS ON SUBJECTS LISTED IN THE  
PROVISIONAL PROGRAMME OF WORK**

Submitted by the Chairperson\*

**I. Introduction**

1. Since the Third Review Conference (7-17 November 2006), a number of contributions (proposals, working papers, statements, comments, observations) were made on the topics included in the Provisional Programme of Work of the Second 2008 session of the GGE (CCW/GGE/2008-II/2). In order to facilitate further consideration of these topics, relevant key points from these contributions have been summarized and regrouped under the headings of the Provisional Programme of Work of the April meeting.

2. These relevant key points under each heading are listed in no particular order of preference. The numbering of the paragraphs is introduced for reference purposes only. The authors are not listed since the document does not intend to be an exhaustive overview of states' contributions but rather a working tool drawn up in order to facilitate consideration of the topics in question.

**II. International Humanitarian Law and its implementation**

3. While the general International Humanitarian law (IHL) rules provide a framework for limiting the potential indiscriminate effects of all weapons, IHL also accommodates the development of specific treaties for weapons which may cause unacceptable human suffering. The specific characteristics of cluster munitions (CM) and their history of causing severe humanitarian problems strongly argue for the development of new and more specific regulation. Such specific rules help strengthening the law and reduce the risk of unnecessary death, injury and suffering to civilians and combatants; they restrict how weapons may be used and outline measures which need to be taken so as to limit their impact on civilians and civilian objects. The most relevant rules include:

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\* Submitted after the due date.

- (a) The rule of distinction,
  - (b) The rule prohibiting indiscriminate attacks (i.e. given the wide area effects of CM and the large number of unguided submunitions released, how to distinguish between military objectives and civilians in a populated target area),
  - (c) The rule of proportionality (i.e. how to determine the "military advantage anticipated" given the varying and apparently unpredictable failure rates of many CM models), and
  - (d) The rule on feasible precautions (i.e. how to implement this rule in light of the known characteristics and foreseeable effects of cluster munitions).
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4. Cluster munitions are both lawful and legitimate provided that appropriate measures are taken in order to minimize their humanitarian impact. Existing body of IHL provide us a coherent basis for the attainment of our objectives. Of particular relevance is the need to ensure observance of the principle of distinction enshrined in article 48 of Protocol I Additional to the 1949 Geneva Conventions as well as the principle of precaution in line with the measures stipulated in article 57 of the same instrument.

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5. A new protocol should include a clear stipulation of relevant international humanitarian law principles.

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6. The negotiations should focus on the consideration of provisions related to the use of cluster munitions. Provisions on use could include identifying and clarifying the application of rules of international humanitarian law that apply to the use of cluster munitions. Also it could be beneficial to identify good military practices that apply to the use of cluster munitions, including for example, protections and safeguards that can be implemented through the targeting process. These issues could be contained in an annex or some other mechanism for identifying best practices.

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7. The current IHL imposes fairly serious restrictions on the use of cluster munitions. Perhaps, a clearer point would be made if all restrictions applicable to cluster munitions were brought together in one format. Such attempts have already been made and this work demonstrates well enough the adequacy of the already existing multiple international humanitarian regulations. The present efforts should mainly focus on the elaboration of measures intended to ensure proper implementation of the existing rules of IHL. This could build on the consolidated best practice of the states in the field of the use of cluster munitions. Essential to put an obligation on the states to intensify their activities so as to elaborate and adopt national regulations on the use of cluster munitions consistent with the existing IHL and on the advocacy of the IHL among their citizens and first of all among their armed forces.

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8. The real problem with cluster munitions lies in their irresponsible and indiscriminate use rather than in the weapon system itself. In order to effectively address the humanitarian concerns arising from the use of cluster munitions, it is essential to make every effort to confine their use to purely military objects and to ensure that they will not be used in, or near any concentration of civilian population. In order to reduce the risk of severe damage to civilians, not only the position and the size of the group of civilians should be taken into account, but also practical and comprehensive means to mitigate the damage.

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9. Fundamental questions regarding humanitarian concerns by cluster munitions relate to the use and post-war clearance of cluster munitions through restricting and regulating the choice of targets and operation procedures, and enhancing efforts to clear unexploded sub-munitions.

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10. Emphasis of efforts should be on ways to address unlawful and indiscriminate use of cluster munitions. Civilian casualties have been caused in situations where the munitions specifically targeted the civilian population. It should be examined which rules would strengthen adherence to the IHL.

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11. Under IHL the use of cluster munitions is guided by the following principles: Civilians and non-combatants must be protected against the effect of these munitions. Superfluous injury and unnecessary suffering results from the distinction between civilians and combatants not being maintained.

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12. It is essential to make every effort to confine the use of cluster munitions to purely military objects and to ensure that they will not be used in, or near any concentration of civilian population. In order to reduce the risk of severe damage to civilians, we should take into account not only the position and the size of the group of civilians but also practical and comprehensive means to mitigate the damage.

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13. The civilian population must be protected both by restricting the military use of cluster munitions (targeting). The use of cluster munitions must be subject to clear restrictions within or near populated areas.

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14. Stricter application, implementation and enforcement of the existing IHL would greatly contribute to effectively addressing concerns regarding cluster munitions.

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15. To promote a universally acceptable framework (best practices) aimed at strengthening compliance with IHL and assisting States and their military forces in implementing law when applying military force, including the use of cluster munitions. The stages that could form the basis for such best practices might include:

- (a) To identify the applicable principles of IHL pertaining to the application of military force and of the particular weapon in use.
- (b) To determine the lawfulness of the weapon under consideration by way of a legal review.
- (c) To ensure that military doctrine reflects the relevant law.
- (d) To have adopted a manual of IHL (otherwise known as the Law of Armed Conflict-LOAC), for use by the military.
- (e) To ensure that military planners take into consideration the relevant law.
- (f) To have a targeting procedure conducted by trained personnel that leads to a targeting directive, which is cleared by appropriate political and legal authorities.
- (g) To ensure that appropriate Rules of Engagement (ROE) are in place, which are cleared by appropriate political and legal authorities.
- (h) To train all military personnel in IHL and ROE to ensure they understand and comply with humanitarian and legal obligations.
- (i) To ensure the availability of legal advice at every appropriate step above, including for training and operations.
- (j) To have in place within domestic law an enforcement mechanism properly to investigate and deal with breaches of IHL.

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16. The use of cluster munitions must be subject to clear restrictions within or near populated areas.

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LEGAL TEXTS:

- “(i) 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.
- (ii) It is prohibited in all circumstances to make any military objective located within a concentration of civilians or in areas normally inhabited by civilians the object of attack using cluster munitions.
- (iii) It is prohibited to attack with cluster munitions objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and

irrigation works, or pharmaceutical installations. This shall also apply if these installations are not used solely for the sustenance of the civilian population but also for the sustenance of members of the armed forces.

- (iv) “Military objective” means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage;
- (v) “Civilian objects” are all objects which are not military objectives as defined in paragraph 9 of this article.
- (vi) “Concentration of civilians” means any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.”

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### **III. Technical aspects of Cluster Munitions (reliability, accuracy)**

17. Any weapon used must be both accurate in engaging military targets and reliable so they do not endanger the lives, limbs and livelihoods of civilian population, either at the time of use or post-conflict. Cluster munitions that fail to meet this standard of performance should be prohibited.

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18. The civilian population must be protected both by restricting the military use of cluster munitions (targeting) and by developing new technical standards. The development of new technical standards should lead to the replacement of present day cluster munitions by a new generation of area target munitions.

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19. It is premature to impose legally binding quantitative restrictions on the technical characteristics of cluster munitions. It would be better to draw up recommendations on best practice on improving the reliability of cluster munitions.

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20. The instrument will need to contain measures based on best practices in order to improve the reliability, accuracy and deployment of such cluster munitions as remain authorized.

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21. For any weapon system, the adoption of technical improvement measures to improve its reliability and accuracy is needed. In this regard, it is to a certain extent reasonable to adopt such technical improvement measures. This should comply with the principle of military cost effectiveness. Therefore, technical improvement measures might be implemented as best practices.

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22. The emphasis on using technologically advanced cluster munitions is not the right track. This would only deprive developing countries of weapons that offer military advantage at lower cost compared with other alternate weapons. The cost of destroying the current stocks and moving to newer technologies would be huge.

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23. The proposed standards of accuracy and reliability need to be weighed against the level of our present technological threshold and the cost and time required to replace them. Especially developing States will have an incentive to move towards improved cluster munitions only if the higher costs are offset by access to the new technologies or by the development of other economically viable alternatives.

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24. Cluster munitions whose sub-munitions are equipped with self-destruction, self-neutralization, or self-deactivating mechanisms can reduce the number of unexploded sub-munitions. Cluster munitions whose failure rate is below a certain level, or which contain only a limited quantity of sub-munitions can also reduce the number of unexploded sub-munitions. Cluster munitions equipped with guidance system can reduce the areas where unexploded sub-munitions might be dispersed, making their clearance easier.

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25. There is no basis for believing that improving reliability and accuracy can be the sole or primary solution to the problem of cluster munitions, which are weapons that pose not only a grave humanitarian problem, but also bear also military and political disadvantages and costs for States, in terms of post-conflict clearance and proliferation to non-state actors.

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26. Over the long term, technical improvements offer a promising path toward lessening the humanitarian consequences of cluster munitions.

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27. Restrictions should not be imposed on cluster munitions depending on their service life. The degree of deterioration depends on the design, the durability of the materials used, the quality of production and the duration and conditions of service or storage. Thus, the period during which the quality of the munitions declines to below acceptable limits can vary substantially, depending primarily on conditions of service and design characteristics.

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28. Improvement in technology might help but cannot alone solve the problems caused by cluster munitions. Technical approaches need to address not only design, but also how cluster munitions will function in actual combat situations. Therefore, realistic testing is needed.

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29. Any technical requirement that may be introduced to limit the use of cluster munitions should provide for a long transition period.

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## LEGAL TEXTS:

- “(i) “Reliable” cluster munitions means cluster munitions which contain sub munitions of a dangerous dud rate below one percent measured according to the testing standards set out in the Technical Annex.
  - (ii) “Accurate” cluster munitions or sub munitions are munitions which are effective only within a pre-defined target area. Technical standards on accuracy are set out in the Technical Annex.”
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**IV. Types of Cluster Munitions that may cause particular humanitarian harm**

30. Unacceptable harm by cluster munitions has in some cases been caused by the use of these munitions and in some cases by the improper design of some types of cluster munitions. Following the urgent appeal of the International Committee of the Red Cross it is proposed that unreliable and inaccurate cluster munitions be prohibited immediately. Other, less dangerous, types should be phased out in a mid-term perspective.

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31. “Unreliable” or “inaccurate” cluster munitions should no longer be used at all, with immediate effect. “Reliable” and “accurate” cluster munitions may continue to be used for the time being. However, they should be phased out in a mid-term perspective, which, in our view, should be no longer than ten years. Ultimately, all cluster munitions would be replaced by alternative munitions that provide the same capabilities as cluster munitions while presenting considerably less humanitarian hazards. They could be labeled “Sensor Fused Area Munitions”.

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32. In distinguishing between cluster munitions that should be prohibited and those that should not, it is important to incorporate the notions of accuracy and reliability, and then decide for what type of munitions those criteria should be applied. When considering reliability, it would be preferable to focus on the expected explosive remnants of war (ERW) that will be left on the ground, instead of focusing on technical ways of preventing ERW. For effectively minimizing ERW the protocol will only have to set a clear reliability standard. How this standard is achieved, for example through self-destruct or self-neutralizing mechanisms, can be left to the producers.

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33. A future instrument should include a prohibition on the use, production, stockpiling and transfer of those cluster munitions that cause unacceptable harm to civilians.

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34. Clear and commonly agreed criteria must be established to determine which of the more than 200 existing types of cluster munitions may be acceptable, and to distinguish them from those which are prone to indiscriminate effect and therefore should not exist.

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35. Not possible to discriminate between “good weapons” and “bad weapons”, as a condition to allow the trade and use of the first group to the detriment of the second.

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36. The suggestion to ban “inaccurate” and “unreliable” cluster munitions is not the right way to address the humanitarian risks posed by their irresponsible use. Open discussions between technical and military experts should help us in determining which cluster munitions are inaccurate and unreliable. Adequate transition period and transfer of technology would be important factors in this regard.

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37. Cluster munitions should be prohibited for use, production, transfer and stockpiling.

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38. It is premature to impose legally binding quantitative restrictions on the technical characteristics of cluster munitions. It would be better to draw up recommendations on best practice in this field, including perhaps the design of cluster munitions.

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39. Restrictions should not be imposed on cluster munitions depending on their service life. The degree of deterioration depends on the design, the durability of the materials used, the quality of production and the duration and conditions of service or storage. Thus, the period during which the quality of the munitions declines to below acceptable limits can vary substantially, depending primarily on conditions of service and design characteristics.

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40. The result should reflect the wish of a majority of countries to prohibit cluster munitions that cause unacceptable harm to civilians.

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41. Cluster munitions which are not reliable or accurate should be restricted or prohibited in the following manner: their development, production, acquisition, or transfer should be immediately prohibited. In this way, we can make sure that these cluster munitions will not continue to increase. The use of these types of cluster munitions, which countries already possess, should be limited to only when it is strictly necessary and up to a certain period of time. This sets a transition period. After the transition period, they should be prohibited altogether.

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42. No class of cluster munitions inherently causes unacceptable harm to civilians notwithstanding any precautions or safeguards associated with its use and actions that might be taken after its use. All weapons present humanitarian concerns if used improperly.

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43. In assessing whether certain types of cluster munitions should be prohibited a distinction should be drawn between cluster munitions with and cluster munitions without self-destruction or self-neutralization mechanisms.

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44. To prohibit the use of basic submunitions after an agreed transition period in order to allow time for States to adopt the instrument and change their military capability without incurring a capability gap. For this purpose, to include in an instrument an appropriate transition period, defined along the lines that the use of the prohibited CM (as defined) would not come into effect until after [...] years. The period of time needs to be negotiated.

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45. The instrument will have to establish an obligation to destroy prohibited cluster munitions, at the same time providing for an appropriate transition period and the possibility of maintaining minimum stockpiles for an interim period for specific lawful purposes.

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#### LEGAL TEXTS:

- “(i) It is prohibited in all circumstances to use any unreliable and/or inaccurate cluster munitions as defined in [...]. Norms for testing are set out in the Technical Annex.
  - (ii) It is prohibited in all circumstances to use any cluster munitions as defined in [...] [...] years after this Protocol enters into force for the respective High Contracting Party. Norms for testing are set out in the Technical Annex. Pending the entry into force of the prohibition under the first sentence of this paragraph, the respective High Contracting Party undertakes to use cluster munitions only as a last resort if no other type of munition is available to reach the desired military advantage.
  - (iii) The provisions of this Article do not prevent the use of alternative munitions as defined in Article 2, paragraph 8. Norms on alternative munitions are set out in the Technical Annex.
  - (iv) “Unreliable” cluster munitions means cluster munitions which contain submunitions of a dangerous dud rate of one percent or more measured according to the testing standards set out in the Technical Annex.
  - (v) “Dangerous dud” means a sub-munition which failed to explode or to fully explode, and has a fuse in armed position.
  - (vi) “Inaccurate” cluster munitions or submunitions are munitions which are effective also outside a pre-defined target area. Technical standards on accuracy are set out in the Technical Annex.”
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**V. Victim assistance, cooperation and assistance. Universalization and implementation of Protocol V**

46. A future instrument should include arrangements on victim assistance and international co-operation and assistance.

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47. It is important to include the issues of health care of the cluster munitions victims as well as their psychological rehabilitation and socio-economic integration on a mandatory basis. International co-operation and assistance should foresee precise mechanisms on clearance comprising financial and realization obligations of the users of cluster munitions.

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48. A new protocol should include an article specifically addressing the need for victim assistance. Those countries, in a position to do so, should, when feasible, provide assistance to those who are in need.

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49. Victim assistance is an issue of utmost importance. CCW Protocol V should be taken into consideration. The term “victim” not only relates to the person directly affected by a cluster munition blast, but also encompasses those indirectly affected: the family of a victim, to some extent his/her friends, and even the community in which the victim lives. The required assistance does not only relate to emergency. It also relates to rehabilitation, psychological care and social as well as economic reintegration of victims.

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50. Ambitious targets with respect to victim assistance must be established to ensure that victims receive the full range of physical, psychological and social services required to restore them to health and to reintegrate them into their societies, and to ensure that their families and communities receive the support they need, as well.

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51. In regards to victim’s assistance, the rehabilitation needs of cluster munitions victims are not significantly different than the needs of victims of other traumatic injury, such as those from landmines. Strengthening and supporting overall rehabilitation efforts of a country is the most sustainable and appropriate response to the needs of victims of conflicts. There are many assistance mechanisms in place to provide prosthetic and orthotic services as well as other necessary rehabilitation. Existing mechanisms should be strengthened not duplicated.

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52. The instrument will need to provide encouragement for cooperation and assistance among States, particularly with regard to the destruction of stockpiles, the development and operationalization of techniques for the destruction, neutralization and clearance of cluster munitions and training in such techniques. The instrument will need to be designed to complement Protocol V on Explosive Remnants of War.

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53. On the remedial side, CCW Protocol V already establishes the obligation to clear areas affected by the presence of ERW, including those generated by the use of cluster munitions.

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54. CCW Protocol V provides adequate legal ground for resolving the concerns caused by the ERW, including unexploded sub-munitions.

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55. There should be a clear connection to CCW Protocol V on clearance and to other provisions of the international humanitarian law.

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56. Cluster munitions can be addressed through a more effective implementation of CCW Protocol V.

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57. Important to set up procedures to share information regarding the location and numbers of ERW after the conflict. In addition, we can develop methods to mark contaminated areas. On this point it is necessary to carefully examine how to apply the existing IHL, including the CCW Protocols to respond effectively to the humanitarian impact of cluster munitions.

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58. Some problems of ERW is not sufficiently addressed under the CCW Protocol V. Practical value of the protocol is rather limited to the post-conflict clearance, while falling short of addressing humanitarian consequences during or shortly following an attack. After having reached consensus to accommodate these concerns, the discussion could address ways to strengthen the weak points of the current IHL framework. One of the possible options could be to add some related provisions in the Technical Annex, which contains best practice for achieving the objectives of the CCW Protocol V.

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59. States, especially developing ones, will have an incentive to move towards improved cluster munitions only if the higher costs are offset by access to new technologies or by the development of other economically viable alternatives.

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#### LEGAL TEXTS:

“The provisions of Protocol V, in particular those on Clearance, Removal or Destruction of Explosive Remnants of War (Article 3), Recording, Retaining and Transmission of Information (Article 4), Other Precautions for the Protection of the Civilian Population (Article 5) and of Humanitarian Missions and Organizations (Article 6), Assistance with respect to existing ERW (Article 7), Co-operation and Assistance (Article 8) and Generic Preventive Measures (Article 9), shall also apply in the context of this Protocol, as appropriate.”

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## VI. Definition

60. At the First 2008 session of the Group of Governmental Experts heard the report of the work of the Meetings of Military and Technical Experts and agreed that the draft working definition of cluster munition, provides an appropriate basis for future work. Future work will also take into account other proposals, including proposals presented at that and previous sessions<sup>1</sup>. The DRAFT WORKING DEFINITION OF CLUSTER MUNITION is as follows:

“[“Cluster munition” means a carrier-container which contains [more than ten [x]] explosive sub-munitions and is designed to [eject or disperse or release]/[dispense] explosive sub-munitions [over an area [target]]

“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]/[an area] target.

“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 designed to [eject or disperse or release]/[dispense] [multiple sub-munitions]/[more than [y] sub-munitions] in a single [act]/[continuous/uninterrupted process].
- /
- (b) a dispenser, affixed to an aircraft, which is not designed to [eject or disperse or release]/[dispense] direct-fire munitions.]]”

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61. The definitions of ”concentration of civilians”, ”civilian objects” and ”military objects” as established in Amended Protocol II and Protocol III are appropriate.

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62. The relevant definitions from Protocol V may be borrowed in case there will be a need to define “unexploded” or “abandoned” cluster munitions.

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<sup>1</sup> Proposals on definitions on cluster munitions, explosive submunitions, bomblets, reliable, unreliable, dangerous duds, accurate, inaccurate, alternative munitions, military objective, civilian object, concentration of civilians, feasible precautions, or transfer are also contained in documents such as CCW/GGE/2007/WP.1, CCW/GGE/2007/WP.9 and CCW/GGE/2008-I/WP.2.

## VII. Stockpile management

63. Countries that have financial difficulties in stock pile destruction could be assisted through an adequate mechanism by trust fund established by the states parties.

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64. Restrictions should not be imposed on cluster munitions depending on their service life. The degree of deterioration depends on the design, the durability of the materials used, the quality of production and the duration and conditions of service or storage. Thus, the period during which the quality of the munitions declines to below acceptable limits can vary substantially, depending primarily on conditions of service and design characteristics.

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65. A future protocol should establish clear restrictive rules on transfer, storage, destruction, development, production and acquisition modeled on existing legal instruments such as the CCW and the Ottawa Convention. The procurement of alternative munitions (SEFAM) should have priority over the ultimate destruction of cluster munitions stocks.

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66. Ambitious but attainable deadlines for the destruction of all cluster munitions that do not meet the accuracy and reliability standards of performance must be established.

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### LEGAL TEXTS:

”In order to promote the purposes of this Protocol, each High Contracting Party:

(i) Storage

- (a) undertakes to take cluster munitions and their sub munitions prohibited according to Article [...] out of such stocks which are foreseen for use, and keep it in separate and secure stockpiles for the purpose of destruction, taking into account the exceptions under paragraph 3 of this Article,
- (b) undertakes to take cluster munitions and their sub munitions prohibited according to Article [...] out of such stocks which are foreseen for use, and keep it in separate and secure stockpiles for the purpose of destruction, [ ... ] years after the entry into force of this Protocol for that State Party, taking into account the exceptions under paragraph 3 of this Article.

(ii) Destruction

- (a) undertakes to destroy or ensure the destruction of all stockpiled cluster munitions and their sub munitions prohibited according to Article [...] it owns or possesses or that are under its jurisdiction or control, as soon as possible but not later than [ ... ] years after the entry into force of this Protocol for that State Party,

- (b) undertakes to destroy or ensure the destruction of all stockpiled cluster munitions and their sub munitions prohibited according to Article [...] it owns or possesses, or that are under its jurisdiction or control, as soon as possible but not later than [ ... ] years after the entry into force of this Protocol for that State Party.

(iii) Exceptions

undertakes to retain no more than a limited number of cluster munitions and sub munitions prohibited according to Article [...] for the development of and training in detection, cluster munitions clearance, or cluster munitions destruction techniques. The amount of such dangerous cluster munitions shall not exceed the minimum number absolutely necessary for the above-mentioned purposes.”

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### **VIII. Transfers**

67. There should be a general regime prohibiting the transfer of cluster munitions that cause unacceptable humanitarian harm.

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68. Cluster munitions are not limited to states' armed forces. Terrorist organizations are capable of procurement and use of such weapons. The CCW's outcome should in-corporate a prohibition on the transfer of cluster munitions to terrorists.

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69. Adequate transition period and transfer of technology would be important.

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#### **LEGAL TEXTS:**

”1. In order to promote the purposes of this Protocol, each High Contracting Party:

- (a) undertakes not to transfer, except for destruction, testing, exercises and training in detection, clearance, or destruction techniques for cluster munitions and their sub munitions, any cluster munitions the use of which is prohibited by Article 4 of this Protocol;
- (b) undertakes not to transfer any cluster munitions to any recipient other than a State or a State agency authorized to receive such transfers;
- (c) undertakes not to transfer any cluster munitions to States which are not bound by this Protocol unless the recipient State agrees to apply this Protocol; and

- (d) undertakes to ensure that any transfer in accordance with this Article takes place in full compliance, by both the transferring and the recipient State, with the relevant provisions of this Protocol and the applicable norms of international humanitarian law.

2. All High Contracting Parties, pending the entry into force of this Protocol, will refrain from any actions which would be inconsistent with paragraph 1 of this Article, including when providing relevant licenses.”

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