Protocol V on Explosive Remnants War – Making the most of national reporting

Introduction

At the Sixth Conference on Protocol V High Contracting Parties agreed to the following recommendation:

*The Coordinator on National Reporting with the assistance of the CCW Implementation Support Unit to consider how to encourage High Contracting Parties to report on their obligations relating them clearly as required with the national reporting form.*

In order to fulfil this recommendation, the Coordinator on National Reporting, Major Aviateur Lode Dewaegheneire, will make a presentation on reporting under Article 3 – surveillance and clearance of explosive remnants of war during the 2013 Protocol V Meeting of Experts. Also, Major Aviateur Dewaegheneire will meet individually with High Contracting Parties which have not yet submitted national annual reports.

The following paper has been prepared by the CCW Implementation Support Unit to assist High Contracting Parties with completing their national annual reports. Reporting presents an opportunity for High Contracting Parties to not only demonstrate their compliance with an international legal instrument, but also to highlight the laws, policies and preparations they have put in place to enhance their implementation of a particular treaty. There are nine individual forms within the Protocol V national reporting template. Not all of the nine forms are addressed below, only those where it has been identified that some further guidance could be provided to High Contracting Parties. Guidance on completing the national annual reporting template is already available in the forms of the Guide to National Reporting (CCW/P.V/CONF/2009/4/Add.1) and by looking at the national reports already submitted by other High Contracting Parties in the Protocol V national annual reporting database (see www.unoog.ch/ccw).

Form A on Article 3 - preparedness for implementing Protocol V’s obligations

An important aspect of Protocol V is that it establishes a framework for preventing humanitarian harm from ERW that is created in the future. This is most apparent in Article 3 on clearance, removal or destruction of ERW, which sets out who is responsible for surveillance and clearance operations and how these should be coordinated, carried out and resourced. Affected States have provided excellent reporting on their efforts to carry out surveillance, clearance and destruction of ERW on their territories.

In terms of demonstrating preparedness to implement the obligations of Article 3, it is useful under Form A for potential users of explosive ordnance to provide information on what they would do if they were to find themselves in a situation of armed conflict. For example, which part of a State’s operation or administration would be responsible for deploying and resources for a clearance operation? What resources would be available? And would clearance teams be included in the deployment of the armed forces?
Form B on Article 4 - recording, retaining and transmission of information

Article 4 of Protocol V requires that High Contracting Parties to record the use or abandonment of explosive ordnance during an armed conflict and for that information to be stored. After the cessation of active hostilities the information recorded is to be made available to the party or parties in control of the affected areas either bilaterally or through a third party such as the United Nations. A common error under Form B is for States to report on the extent of contamination on their territories. Again, Article 4 addresses recording the use or abandonment of explosive ordnance during an armed conflict and not the surveillance of contaminated areas during peacetime. Form B requires the armed forces to set out their procedures for fulfilling the obligations of Article 4.

Forms E and F on Articles 7 and 8 - cooperation and assistance

When completing Form E, it is important to remember that in accordance with Article 7 this form addresses reporting on existing ERW, which is ERW that existed before the entry into force of Protocol V on 12 November 2006. Form E provides an opportunity for States with existing ERW to set out the challenges they face and assistance they require and for donor States to set out what assistance they are providing specifically on this issue. Form F allows States to set out the different types of assistance and their overall contribution to addressing ERW.

Form G addresses Article 9 – generic preventive measures

Generally, Form G has received a favourable response from High Contracting Parties. However, with the number of unplanned explosions at munitions sites in both developed and developing States increasing each year, it is important that High Contracting Parties take action in this area. A basic requirement to putting in place generic preventive measures in order to prevent accidents and unnecessary explosions is to establish laws, regulations or guidelines on the safe handling, transportation and storage of ammunition.

Form H on Article 11 - compliance

Article 11 requires that High Contracting Parties ensure their “armed forces and relevant agencies or departments issue appropriate instructions and operating procedures and that its personnel receive training consistent with the relevant provisions of this Protocol”. An issue under Form H is that some States only provide information concerning training courses they are conducting on the clearance and destruction of ERW. However, Article 11 requires that training and instruction be provided on the relevant provisions of Protocol V. For example, if your armed forces are potential users of explosive ordnance then they will need instructions and training on Articles 3, 4, 5, 6 and 9.