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## Introduction

The Conflict and Environment Observatory (CEOBS) is a UK charity that undertakes research and advocacy on the environmental dimensions of armed conflicts and military activities.

We are grateful to the government of Ireland for its efforts to develop and promote a political declaration intended to strengthen the protection of civilians from the use of explosive weapons in populated areas (EWIPA).

We urge States to ensure that the declaration properly addresses the environmental risks created by the use of explosive weapons in populated areas, and the need to properly integrate measures to protect the environment when dealing with their legacy.

## General Statement

Revisions to highlight the critical link between environmental protection and the protection of civilians were proposed in 2021.<sup>1</sup> These suggested amendments have not been included in the latest draft.

Russia's invasion of Ukraine has underscored horrendous impact on civilians and the environmental risks associated with the use of explosive weapons in populated areas, particularly where residential areas are co-mingled with industrial, commercial, and energy infrastructure. Independent monitoring of the conflict has already identified dozens of locations where damage from explosive weapons may have caused serious pollution incidents that may affect communities for long after the conflict. Unfortunately, these risks are not unique to Ukraine.

These incidents have been an inevitable outcome of the decision to deploy explosive weapons in populated areas. We reiterate the importance of strengthening the declaration text to ensure that the environmental consequences of the use of explosive weapons in populated areas are also highlighted. These include acute and chronic health risks to the civilian population, and the long-term degradation of the environment.

Our rationale underlying our proposed amendments are as follows:

- The environment is a civilian object.<sup>2</sup>

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<sup>1</sup> <https://tinyurl.com/2p9c6y59>

<sup>2</sup> For discussion on the accepted civilian character of the environment see the ICRC's 2020 *Guidelines on the Protection of the Natural Environment in Armed Conflict* <https://shop.icrc.org/guidelines-on-the-protection-of-the-natural-environment-in-armed-conflict-pdf-en>

- Protecting the environment, and the services it provides, is a vital component of the protection of civilians.<sup>3</sup>
- The environmental contamination linked to the use of explosive weapons poses acute and chronic health risks to civilians.<sup>4</sup>
- The use of explosive weapons is of particular environmental concern due to the destruction or damage it causes to infrastructure and objects found in populated areas. This destruction or damage can lead to pollution of environmental media and create immediate and long-term exposure risks for civilians.<sup>5</sup>
- The debris generated by the intensive use of explosive weapons can create environmental health risks and, if improperly managed, lingering damage to the environment.<sup>6</sup>

We strongly encourage States to replace the term “natural environment” with the term “environment”. Although the term natural environment is used in Additional Protocol I, it is an artefact of the period of its development and does not reflect contemporary understanding of the relationship between people and the environment, nor of the value of the environment *per se*.

In light of the foregoing, and with respect to section 4 of the draft text on commitments on data, assistance, and follow up measures, we think it particularly important to reference the environmental consequences of EWIPA. Affected communities can be better protected if environmental considerations are taken into account during response and recovery. This includes implementing best practice in the assessment and sound environmentally management of conflict debris and pollution.

Our suggested amendments to the declaration are below, and highlighted in red.

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<sup>3</sup> Increasing attention is being paid to the relationship between the protection of the environment and the protections of civilians, see for example the UN Secretary General’s reports on the protection of civilians in armed conflict [S/2019/373](#) and [S/2020/366](#).

<sup>4</sup> <https://www.unep.org/news-and-stories/story/environmental-legacy-explosive-weapons-populated-areas>

<sup>5</sup> The adverse impacts caused by the use of EWIPA include the risks and harmful effects to people and the environment from debris, hazardous materials, contaminated ground, poor air quality, contaminated water resources, wastewater and contaminated water supplies. Environmental threats from infrastructure objects in urban settings include industrial and commercial units, fuel stations, workshops, water and wastewater treatment facilities, and energy generating and transmission sites.

<sup>6</sup> The collapse of waste management infrastructure and eventual clearance and removal of debris and demolition waste also has significant environmental impacts, such as from the moving lorry loads of debris and the adverse impact on any disposal areas. There is also the impact associated with any post-conflict reconstruction, with contaminated ground potentially affecting the suitability for re-use, re-construction and safe re-occupation of land.

REV 2

## Draft Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences from the use of Explosive Weapons in Populated Areas

Part A: Preamble

Section 1

- 1.3 The destruction of housing, schools and cultural heritage sites further aggravates civilian suffering, and the ~~natural~~ environment. The environmental can also be impacts of ed by the use of explosive weapons, include leading to the contamination of air, soil, water, and other resources by pollutants released by objects that are damaged or destroyed.<sup>7</sup> The use of explosive weapons in populated areas can also result in psychological and psychosocial harm to civilians.
- 1.5 Many militaries already implement operational policies and practices designed to avoid, and in any event minimize, civilian harm, which include a detailed understanding of the anticipated effects of explosive weapons on a military target and its surrounding areas and the associated risk to civilians in populated areas. However, there is scope for practical improvements to achieve the full and universal implementation of, and compliance with, obligations under International Humanitarian Law, and the application and sharing of good practices. Broadening and strengthening initiatives designed to share military policies and practices on protecting civilians and the environment, can support the promotion and better implementation of International Humanitarian Law.
- 1.7 We stress the imperative of addressing the short and long-term humanitarian and environmental consequences resulting from armed conflict involving the use of explosive weapons in populated areas. We welcome the on-going work of the United Nations, the International Committee of the Red Cross (ICRC) and civil society on the impacts and long-term humanitarian consequences arising from the use of explosive weapons in populated areas.

Section 2

- 2.2 Existing International Humanitarian Law provides the legal framework to regulate the conduct of armed conflict, and is applicable to the use of explosive weapons in all operating environments, and to all parties to an armed conflict, including both State and non-State armed groups. We stress the importance of full compliance with International Humanitarian Law as a means to protect civilians and civilian objects,

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<sup>7</sup> This revised paragraph aligns with UN Environment Assembly resolution UNEP/EA.3/Res.1 on *Pollution mitigation and control in areas affected by armed conflict or terrorism*, which expressed: "...its grave concern regarding pollution and environmental degradation caused by armed conflict or terrorism through the targeting of natural resources, vital civilian infrastructure, including water filtration facilities, sanitation and electricity networks, and residential properties." <https://undocs.org/UNEP/EA.3/Res.1>

including the environment and to avoid, and in any event minimize, civilian harm when conducting hostilities, in particular within populated areas.

- 2.4 We condemn tactics designed to exploit the proximity of civilians or civilian objects to military objectives in populated areas, as well as the use of improvised explosive devices directed against civilian or civilian objects, and other violations of International Humanitarian Law, including by non-State armed groups, which further exacerbate the risks to civilians and the environment, and are of grave concern

## Part B: Operative Section

Committed to strengthening the protection of civilians and civilian objects, including the environment, during and after armed conflict, strengthening compliance with applicable International Humanitarian Law, and addressing the humanitarian consequences arising from armed conflict involving the use of explosive weapons in populated areas, we will:

### Section 3

- 3.2 Ensure comprehensive training of our armed forces on International Humanitarian Law, and on the measures and good practices to be applied during the conduct of hostilities in populated areas to protect civilians and civilian objects, including the environment.
- 3.4 Ensure that our armed forces take into account the direct and reverberating effects on civilians and civilian objects, including the environment, which can reasonably be foreseen in the planning of military operations and the execution of attacks in populated areas, and conduct battle damage assessments, to the degree feasible, to identify lessons learned.

### Section 4

- 4.1 Strengthen international cooperation and assistance among armed forces, and other relevant stakeholders with respect to exchanges of technical and tactical expertise, and humanitarian and environmental impact assessments, in order to develop good practice to enhance the protection of civilians, particularly with regard to the use of explosive weapons in populated areas.
- 4.2 Collect and, where feasible and appropriate, share and make publicly available disaggregated data, on the direct and reverberating effects on civilians, and on the environment, of military operations involving the use of explosive weapons in populated areas.
- 4.3 Facilitate the work of the United Nations, the ICRC and relevant civil society organisations collecting data on the impact on civilians and the environment, of military operations involving the use of explosive weapons in populated areas, as appropriate.
- 4.5 Facilitate the work of the United Nations, the ICRC, other relevant international organisations and civil society organisations aimed at protecting and assisting civilian

populations and addressing the direct and indirect humanitarian and environmental impact arising from the use of explosive weapons in populated areas, as appropriate.

- 4.6 Meet on a regular basis to review the implementation of this Declaration and identify any relevant additional measures that may need to be taken to improve compliance with International Humanitarian Law and strengthen the protection of civilians and civilian objects, including the environment, with regard to armed conflict involving the use of explosive weapons in populated areas. As a starting point, a group of interested States, with the participation of the United Nations, the ICRC, other qualified relevant international organisations and civil society organisations, could develop a compilation of good practice, which could form the basis for structured military-to-military and other exchanges, workshops, and seminars

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