

Proposed amendments to the 29/01/21 Draft Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences that can arise from the use of Explosive Weapons with Wide Area Effects in Populated Areas

25th February 2021



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).

In the course of our work monitoring environmental harm during and after armed conflicts, we regularly see the immediate and reverberating effects of the use of explosive weapons on the environment. These observations form the basis of our comments on the 29th January 2021's draft declaration text, which are included below. The rationale underlying these proposed amendments is as follows:

- The environment and its constituent parts are civilian objects.¹
- Protecting the environment is a vital component of the protection of civilians.²
- The environmental degradation linked to the use of explosive weapons poses acute and chronic health risks to civilians.
- The use of explosive weapons in populated areas is of particular environmental concern due to the destruction or damage it causes to infrastructure and objects found in urban settings. This destruction or damage can lead to pollution of environmental media and create immediate and long-term exposure risks for civilians.³
- The debris generated by the intensive use of explosive weapons in urban settings can create environmental health risks and, if improperly managed, lingering damage to the environment.⁴

¹ 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>

² 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](#).

³ 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.

⁴ 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.

We strongly support INEW's proposal that the term "natural environment" be replaced with the term "environment" throughout the declaration. 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*.

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

REV 1

29/01/2021

Draft Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences that can arise from the use of Explosive Weapons with Wide Area Effects in Populated Areas

Part A: Preamble

Section 1

1.3. The destruction of housing, schools and cultural heritage sites further aggravates civilian suffering, as does damage to the ~~natural~~ environment. **The environmental impacts of the use of explosive weapons with wide area effects include the** contamination of air, soil, groundwater, and other resources, **both by weapons residues and by pollutants released by objects that are damaged or destroyed.**⁵ Urban warfare can also result in psychological and psychosocial harm to civilians.

1.6 Many militaries already implement operational policies and practices designed to mitigate civilian harm, which include a detailed understanding of the 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 in the full 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.

1.8 We welcome the on-going work of the United Nations, the International Committee of the Red Cross (ICRC) and civil society to raise awareness of the impacts and long-term humanitarian consequences that can arise from the use of explosive weapons with wide area effects in populated areas. We also welcome work to empower and amplify the voices of all those affected, including women and girls, and we

⁵ 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>

encourage further research into the potential gendered impacts of the use of explosive weapons with wide area effects. We stress the imperative of addressing the short and long-term humanitarian **and environmental** consequences that can result from the use of explosive weapons with wide area effects arising from the conduct of hostilities, including in urban warfare.

Section 2

2.2 Existing International Humanitarian Law provides the framework to regulate the conduct of armed conflict, and is applicable to the use of explosive weapons with wide area effects 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, **including the environment**, and to mitigate civilian harm when conducting hostilities, in particular within populated areas.

Part B: Operative Section

Committed to strengthening the protection of civilians and civilian objects, **including the environment**, in armed conflict, improving compliance with applicable International Humanitarian Law, and addressing the civilian harm that can arise from the use of explosive weapons with wide area effects 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, civilian objects, **including the environment**, which can reasonably be foreseen in the planning of military operations and the execution of attacks in populated areas.

Section 4

4.2 Collect and, where possible and appropriate, share and make publicly available disaggregated data, on the direct and reverberating effects on civilians, **and on the environment**, of our military operations involving the use of explosive weapons with wide area effects.

4.3 Support 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 with wide area effects, as appropriate.

4.5 Support the work of the United Nations, the ICRC, other qualified international organisations and relevant civil society organisations as appropriate aimed at protecting and assisting civilian populations and addressing the direct and indirect humanitarian **and environmental** impact that can arise from the use of explosive weapons with wide area effects in populated areas.

New 4.6

Support the work of the United Nations and other international and domestic stakeholders in identifying and implementing best practices in the assessment and environmentally sound management of conflict debris and pollution resulting from the use of explosive weapons with wide area effects in populated areas.

4.7 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 the use of explosive weapons with wide area effects in populated areas. As a starting point, a working group of interested States could agree a baseline compilation of good practice, which could form the basis for structured military-to-military exchanges, workshops, and seminars.

4.8 Actively promote this Declaration, distribute it to all relevant stakeholders and seek its adoption by the greatest possible number of States.

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