

**GROUP OF GOVERNMENTAL EXPERTS OF  
THE STATES 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**

CCW/GGE/XII/WG.1/WP.6  
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**Twelfth session  
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Agenda item 7  
Explosive remnants of war  
Working Group on Explosive Remnants of War**

**RESPONSES TO DOCUMENT CCW/GGE/X/WG.1/WP.2 OF 8 MARCH 2005,  
ENTITLED “INTERNATIONAL HUMANITARIAN LAW AND EXPLOSIVE  
REMNANTS OF WAR”**

**Response from Belgium**

**Part 1. Applicability of relevant IHL principles**

➤ **Principle of distinction**

Between combatants and civilians

1. The following may be regarded as constituting international customary law:  
St. Petersburg Declaration, The Hague Regulations, The Hague Convention of 1907, Additional  
Protocol No. 1 to the Geneva Conventions (arts. 48 and 51), United Nations General Assembly  
resolutions 2444 and 2675

Between military objective and civilian object

2. The following may be regarded as constituting international customary law: The Hague  
Regulations, The Hague Convention, Additional Protocol No. 1 to the Geneva Conventions  
(arts. 48 and 52), CCW - amended Protocol II (art. 3) and Protocol III (art. 2)

Corollary: **Prohibition of “indiscriminate” attacks**

3. Principle considered as constituting international customary law: Additional Protocol No. 1 to the Geneva Conventions (art. 51)

4. EITHER:

- Not directed at a specific military target
- Use of means or methods of combat whose effects cannot be directed at a specific military target
- Use of means or methods of combat whose effects cannot be limited under international law

➤ **Principle of proportionality**

5. The following may be regarded as constituting international customary law: Additional Protocol No. 1 to the Geneva Conventions (art. 51), amended Protocol II to CCW (art. 3)

➤ **Principle of precaution**

6. The following may be regarded as constituting international customary law: The Hague Convention of 1907 (art. 2), Additional Protocol No. 1 to the Geneva Conventions (arts. 57 and 58), amended Protocol II to CCW (art. 3)

**Part 2. Implementation of relevant IHL principles**

*What measures have been taken by your State to implement those existing principles of international humanitarian law that are considered by your State as relevant to the use of munitions, including submunitions, that may become ERW?*

(i) *Are the principles reflected in military doctrine and military manuals?*

7. These general principles are reflected in military doctrine and military manuals.

**(ii) *Are the principles reflected in rules of engagement (ROE)?***

8. These general principles are reflected in the rules of engagement but also in the rules of conduct applicable to each mission.

**(iii) *Are IHL principles taken into account:***

**(a) *In the planning of a military operation?***

9. Yes. The types of munitions and the means to be used are selected by Belgium in order to minimize the generation of ERW.

**(b) *In the formal targeting procedures?***

10. Yes. The general principles referred to in point 1 are analysed during the targeting procedure.

**(c) *In order to achieve this, does your State make legal advice available at appropriate levels of command in respect of the application and operation of the relevant existing principles of IHL?***

11. Yes. Through the presence of advisers in the law of armed conflict at the various levels of command and the role of the General Directorate for Legal Support and Mediation. See also point (v).

**(iv) *Are the members of the armed forces trained in these principles?***

12. Generally speaking, every member of the armed forces receives general training in international humanitarian law. Specific training for “advisers in the law of armed conflict” is also provided. Specific training for each mission is also planned.

13. Lastly, during exercises and operations (large-scale PSO), provision is made for a post of “Legal adviser”, which is allocated to a representative of the General Directorate for Legal Support and Mediation.

**(v) *Does your State have a mechanism to review the legality of new weapons, methods of warfare and military doctrine?***

14. In accordance with article 36 of Additional Protocol No. 1 to the Geneva Conventions, a commission has been set up in the Belgian armed forces to evaluate new weapons, means and methods of warfare from the legal standpoint.

15. The Commission's task is to advise the Defence Chief on all new weapons, means and methods of warfare which are under study or development by the armed forces and all new weapons, means and methods of warfare which the armed forces wish to acquire or adopt. This advice is designed to enable the Defence Chief to take appropriate action under international law in this regard.

**(vi) *What other measures are taken to ensure the implementation of these principles?***

16. Training of advisers in the law of armed conflict is regarded as ongoing training; special workshops are therefore organized in response to specific or topical issues.

17. In addition, the Seminar on Military Law and the Law of War regularly organizes symposiums in which the principles of humanitarian law are highlighted.

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