

**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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Cluster munitions

**BENCHMARKS TO IMPROVE RELIABILITY AND ACCURACY OF
CLUSTER MUNITIONS AND A WAY TO
BETTER PROTECT CIVILIANS**

Submitted by Japan

1. In an effort to present a way to better protect civilians, the Government of Japan submits this paper along with suggested Articles in the annex.

I. Benchmarks to Improve Reliability and Accuracy of Cluster Munitions

2. Unexploded sub-munitions of cluster munitions are posing humanitarian concerns that can last even after the cessation of active hostilities. In order to address these concerns, we need (1) to reduce the number of unexploded sub-munitions by increasing the reliability of cluster munitions or (2) to facilitate the clearance of unexploded sub-munitions by increasing the accuracy of cluster munitions. The following benchmarks can achieve these goals.

Equipping explosive sub-munitions with (a) self-destruction mechanisms, (b) self-neutralization mechanisms, or (c) self-deactivating mechanisms

3. These mechanisms are defined in Article 2 of the CCW Amended Protocol II as follows:

- (a) “Self-destruction mechanism” means an incorporated or externally attached automatically-functioning mechanism which secures the destruction of the munition into which it is incorporated or to which it is attached.
- (b) “Self-neutralization mechanism” means an incorporated automatically-functioning mechanism which renders inoperable the munition into which it is incorporated.

- (c) “Self-deactivating” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example, a battery, that is essential to the operation of the munition.

4. These definitions can be incorporated into the new Protocol on cluster munitions. By equipping explosive sub-munitions of cluster munitions with either of these mechanisms, the number of unexploded sub-munitions that might remain can be reduced.

Equipping cluster munitions or their explosive sub-munitions with guidance systems or ensuring that they are otherwise effective only within a pre-defined area

5. By increasing the accuracy of cluster munitions or their sub-munitions through these measures, we can reduce the scope of areas where explosive sub-munitions are dispersed. In this way, we can facilitate the clearance of unexploded sub-munitions because the areas to be cleared are smaller.

Limiting the number of explosive sub-munitions per cluster munition

6. Since the number of explosive sub-munitions is limited, these cluster munitions do not cause many unexploded sub-munitions. They do not disperse explosive sub-munitions in a wider area, either, making the clearance of unexploded sub-munitions easier.

II. A Way to Better Protect Civilians

7. Those cluster munitions that do NOT satisfy any of the above benchmarks are more likely to cause humanitarian concerns and in order to better protect civilians should be restricted or prohibited in the following manner:

- (a) 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.
- (b) Their use should be limited to only when it is strictly necessary and up to a certain period of time (transition period).
- (c) After the transition period, those cluster munitions should be prohibited altogether.

8. When considering the transition period, it should be noted that states possess cluster munitions for legitimate security purposes. The length of transition period needs to be weighed against the way cluster munitions are regulated.

Annex

**SUGGESTED ARTICLES ON THE BENCHMARKS TO IMPROVE RELIABILITY
AND ACCURACY OF CLUSTER MUNITIONS AND A WAY
TO BETTER PROTECT CIVILIANS**

Article XX General Restrictions

1. It is prohibited in all circumstances to use, develop, produce, otherwise acquire, stockpile, own, possess or transfer to anyone, directly or indirectly, cluster munitions unless:

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It is prohibited to use cluster munitions which do not satisfy any of the following criteria:

- (a) their explosive sub-munitions are equipped with a self-destruction mechanism, a self-neutralization mechanism, or a self-deactivating mechanism,
- (b) the cluster munitions or their explosive sub-munitions are equipped with a guidance system or otherwise effective only within a pre-defined area, or
- (c) the number of their explosive sub-munitions is less than ten [X] per cluster munition.

2. The standards and limitations for sub-paragraphs (a) and (b) in paragraph 1 of this Article are specified in the Technical Annex.

3. Notwithstanding the provision of paragraph 1 of this Article, a High Contracting Party may use [, stockpile, own or possess], if strictly necessary, cluster munitions for XX years after the entry into force of this Protocol for that High Contracting Party.

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