

**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**

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**Explosive remnants of war**

**Working Group on Explosive Remnants of War**

**WORKING PAPER ON SUBMUNITIONS**

**Presented by France**

**GENERAL APPROACH**

1. In a concern to share its experience and demonstrate the consistency of its overall approach, France submitted to the CCW Group of Governmental Experts in August 2005 an initial working paper dealing with the application of international humanitarian law, in particular as regards the use of submunitions (CCW/GGE/XI/WG.1/WP.17 of 11 August 2005).
2. Subsequently, in the interests of transparency and to add further elements for reflection, the French delegation prepared a second working paper setting out the overall approach followed by France. Dealing more specifically with the use of cluster weapons, it is designed to show that operational and humanitarian concerns are not opposed to one another but must be able to coexist more closely.
3. Like many other States, France considers that cluster weapons remain indispensable in military terms. In seeking a satisfactory compromise between humanitarian concerns and defence-related constraints, it places the use of such weapons in a consistent overall context which rests on three principles:

- (i) Strict application of international humanitarian law;
- (ii) Respect for appropriate national use concepts;
- (iii) Making all munitions more reliable over their entire life cycle, so as to prevent them from becoming explosive remnants of war (ERW).

4. France has already embarked on this approach in a firm and practical manner. It has withdrawn from operational service existing stockpiles of certain cluster weapons which it judged to be incompatible with this approach, and destroyed them. In particular, in 2002 it completed the destruction of its stockpiles of BLG66 cluster bombs. It also attaches great importance to arms control to prevent legal weapons from being used by irresponsible parties.

5. France supports and actively participates in the work being carried out on ERW within CCW to enable specific preventive measures destined for inclusion in Protocol V to be introduced. It considers that this work offers great promise in achieving a satisfactory compromise between humanitarian concerns and military constraints.

6. In this context, France has proposed a methodological approach aimed at enhancing the reliability of all munitions throughout their life cycle, to prevent them from becoming ERW. This method, which is intended to be pragmatic and open to all, addresses the military, financial and technical dimensions of the solutions available to States. In this way it offers the States parties a real chance to make significant progress towards better addressing their humanitarian concerns, without jeopardizing their defence interests.

## **FRANCE AND SUBMUNITIONS**

### **Cluster weapons systems held by France**

#### **Cluster weapons systems held by the French armed forces**

7. The French armed forces currently hold three systems of cluster weapons:

- (i) Two ground-to-ground systems
  - Multiple rocket launchers (MRL)
  - 155-mm bomblet cargo shells (OGR)

(ii) One air-to-ground system

– APACHE missiles carrying KRISS runway-penetrating bombs.

8. **The MRL** is a system of artillery weapons which is principally intended to neutralize artillery. As these submunitions are known to be unreliable, the French armed forces have opted for the use of rockets with a single explosive charge.

9. **OGR munitions** are delivered by artillery shells. They are designed to interdict a zone with concentrations of armoured vehicles and to neutralize light vehicles. They are very reliable, and each is also equipped with a self-destruction mechanism so as to reduce any risk of generation of explosive remnants of war and consequently of collateral damage among civilian populations.

10. **APACHE and KRISS munitions:** The APACHE air-launched missile is exclusively designed to neutralize runways. This high-precision missile carries 10 KRISS runway-penetrating submunitions. These submunitions have a very high level of reliability, thus reducing the risk of generation of explosive remnants of war and consequently of collateral damage among civilian populations.

#### **Additional information**

11. **BELOUGA munitions:** France has withdrawn the BLG 66 “BELOUGA” grenade-launching bomb from service. It also destroyed its stockpile of related munitions between 1996 and 2002. It has no plans to acquire other air-launched bombs of this type (grenades, pellets, etc.). Nor is it engaged in any projects in this area.

12. **BONUS munitions:** BONUS 155-mm anti-tank artillery shells are designed to neutralize tanks, light armoured vehicles and self-propelled artillery vehicles, whether stationary or moving. It would be going too far to liken these munitions to genuine cluster munitions, as one shell carries only two BONUS munitions at a time. In terms of their employment concept and their specific technical features, these munitions, which are self-guided towards their target in the final stage and each incorporate a self-destruction mechanism, also present an extremely low risk of becoming explosive remnants of war.

### **France's cluster weapon employment concept**

13. Cluster weapons of the ground-to-ground type are intended to be used by the French armed forces only in a conflict against enemy armed forces that possess arms which are of the same type or are capable of directly endangering the security of our forces present in the field.

14. The purpose sought is the neutralization of a number of stationary surface, semi-hard or lightly armoured targets. These could be battle tanks but also, for example, mobile artillery pieces.

15. In order to minimize humanitarian impacts as far as possible, planning and coordination of fire occupy a central role in the use of these weapons. Their use is systematically based on a range of capabilities for command, target acquisition (radar units, observers, drones, etc.) and means of delivery (launchers). Thus the targets aimed at are clearly identified and monitored.

16. More generally, the employment concept for cluster weapons means that throughout the process of decision-making and use, the scale and relevance of the threat posed to the forces by the enemy is evaluated. This process also involves systematic assessment of the possible humanitarian impacts of the use of cluster weapons in the light of their military efficacy.

17. The application of this concept in the French armed forces makes a decisive contribution to ensuring respect for a fair compromise between the effectiveness which is required of the armed forces, their security (which is a primordial criterion governing the actions of the French armed forces) and the legitimate humanitarian concerns which France fully endorses.

18. MRLs are used strictly in keeping with the concept described above. In practice, therefore, such a weapons system would be used by France only when faced by an adversary of the same nature, in the context of high-intensity combat, and of course solely against military objectives.

## **International humanitarian law and the operational use of cluster weapons by France**

19. It is absolutely vital that those using cluster weapons during hostilities take into account and respect all the fundamental principles of international humanitarian law - in particular, the prohibition of superfluous injury and the principles of discrimination and precaution in attack, leading to a concern to minimize collateral damage.

20. The main factors which can produce collateral effects, during or following a conflict, include:

- (i) Rules of engagement which take insufficient account of the risk of collateral effects;
- (ii) Failure to respect the rules of engagement;
- (iii) Use of inaccurate or unreliable weapons systems;
- (iv) Poor identification of the threat or target;
- (v) Too great a proximity between military objectives and civilian populations.

21. The French armed forces endeavour to incorporate these risk factors in the chain of operations, at all stages, i.e. from the planning stage to those of decision-making and implementation, and at all levels, i.e. from the general to the operator in the field. A decision to use cluster weapons during an operation is therefore taken at the proper level with all necessary safeguards.

22. The targets aimed at are always and only military objectives.

23. Well before the active stage of a military operation, legal experts are systematically and very closely involved in the process of planning the operation in question. Legal advisers are then deployed directly in the conflict zone. Their role is to define the legal framework for the action in the light of international law (including international humanitarian law), domestic law and local law and to communicate it to the command responsible for planning the operation.

24. At the time of decision-making, the military command is therefore duly informed of the constraints and obligations to which it is subject under international humanitarian law. It is also aware of the advantages and risks attached to the use of cluster weapons.

25. More broadly, the rules of engagement decided upon at the highest political level and applied by the military command take legal, political and operational parameters into account. They incorporate in particular the relevant principles of international humanitarian law, from which they may in no circumstances depart. Each member of the French armed forces is expected to apply them strictly, and each is made familiar with the principles of international humanitarian law. This training is organized regularly. Refresher training is provided before each departure on an operation.

26. Finally, observation and intelligence systems, human and/or mechanized, operate throughout this process of analysis and decision-making, and remain in operation during the use of the weapons.

27. Within the French armed forces, the use of cluster weapons thus falls under a perfectly well-tested process of analysis and decision-making which fully respects the relevant principles of international humanitarian law.

28. Protocol V has a major role to play in reducing the possible impacts of certain weapons, whether cluster weapons or not, on civilian populations. If munitions were to become explosive remnants of war, as a result of malfunction, they would then, as from the date of its entry into force, fall under Additional Protocol V to the 1980 Geneva Convention (CCW), which was adopted by consensus in Geneva on 28 November 2003. France played an active role in negotiating this legally binding instrument, and is working to secure its entry into force as soon as possible.

29. Protocol V, which includes clean-up obligations, also covers corrective measures to be taken following a conflict so as to reduce the risks and impacts associated with explosive remnants of war. It is designed to enable an effective solution to be applied in the field to the humanitarian problem posed by the scourge of explosive remnants of war, which continue to threaten civilian populations in the zones affected by armed conflicts after hostilities have

ceased. These efforts are continuing in the context of the 1980 Convention, and France plans to continue to play an active role in organizing specific preventive measures to improve the design of certain types of munitions, and particularly submunitions, so as to prevent these items from becoming explosive remnants of war after the cessation of hostilities.

### **Monitoring exports of ordnance**

30. Arms monitoring plays a major role in preventing legal weapons from ending up in the hands of those who might use them irresponsibly and thus raise the risk of unacceptable humanitarian consequences.

31. Monitoring of French arms exports falls within a strict legislative and regulatory framework. This framework takes into account imperatives relating to national sovereignty and security as well as international commitments in the field of arms control, disarmament and non-proliferation. It is based on prohibitions. It contains provision for a system of phased authorizations and continuous coordination between ministries.

32. It is important to emphasize that France is a party to all the international instruments which provide for coordination on matters of arms exports. In particular, it bases its decisions regarding exports on criteria derived from the international treaties, conventions, instruments or forums of which it is a member. Two of the criteria governing consideration of requests are decisive: respect for international commitments and military risk, first and foremost to the security of French forces.

33. Naturally, France applies the embargoes imposed by the United Nations and the European Union against certain countries.

34. Mention should also be made of the coordination built up since 1992 within the European Union, a source of additional safeguards. In particular, the member States exchange information on all issues relating to exports of conventional weapons.

35. Lastly, the Council of the European Union enacted the European Union Code of Conduct on Arms Exports in 1998. This Code sets out eight criteria which must be met before the export of a weapon can be authorized. It also includes arrangements for implementation. Since 2003,

the member States have been focusing on a review of this European Code of Conduct in order to enhance its operational provisions so as to secure genuine convergence of export policies among the member States.

### **The future**

36. In a concern to secure a fair compromise between military and humanitarian concerns, France is driven by a constant resolve to minimize collateral damage.

37. From a very pragmatic standpoint, it should also be pointed out that this approach fits in with the efforts to maximize efficiency which are characteristic of all military activity.

38. The Defence Ministry upholds the principle of restricting the use of cluster weapons to military objectives and reducing the period in which submunitions may be used to the duration of the conflict. This position is upheld by France in the context of CCW.

39. French experts play an active role in the work of CCW, as can be seen from their proposal for methodological efforts to study possible preventive measures to ensure that munitions and submunitions do not become ERW and thus present a humanitarian risk. This exercise, which has been taken up by the group of governmental experts working on this issue, is designed to improve the architecture of munitions and submunitions from the stage of design and throughout their life, including use.

40. Independently of the development of satellite-guided munitions, research and development under way in France is currently focusing in two major areas:

- (i) A major effort is currently being pursued to increase the accuracy of weapons. France now plans to acquire a trajectory correction system on OGR munitions. By increasing the accuracy of each projectile, this technical development should make it possible to reduce substantially the number of OGR munitions needed to attack a given objective, and hence the number of submunitions used;
- (ii) The development of systems (submunitions and dispensers) which guarantee very low rates of unexploded submunitions constitutes a second major area of activity.



The aim is to prevent submunitions from becoming explosive remnants of war, which constitute real risk factors for civilian populations once conflicts end. The number of submunitions carried by one weapon should also tend to fall.

## **Conclusion**

41. It is the task of the armed forces to be capable at all times of discharging the missions assigned to them, with the weapons designated for that purpose, while guaranteeing the protection of their forces during operations.
42. Like many other Western forces, the French armed forces nowadays have recurring operational requirements, and they consider it necessary to continue to be equipped with certain systems of cluster weapons. These weapons are particularly well suited to the neutralization of surface targets (vehicles, batteries, logistics units, etc.), and have no equivalent in this area of use.
43. Deciding to do without cluster weapons would mean accepting a substantial reduction in States' terrestrial defence capabilities. France therefore considers that it would not be reasonable to give them up even though its armed forces recognize their efficacy and are able to use them while strictly respecting the principles of international humanitarian law.
44. In its keenness to prepare for the future, France highlights the use of feedback, scientific and technical research and open-minded and constructive cooperation with all those bodies, governmental or otherwise, which are working in the field of arms control to find the best possible balance between military necessity and humanitarian concerns.
45. Lastly, France is highly committed to improving the production of its munitions, and especially their reliability. It also attaches great importance to international negotiating forums. It plays an energetic role in such forums in order to contribute effectively to enhancing international legal instruments. In this way it supports the efforts being carried out on the improvement of all munitions within the context of the implementation of Protocol V on explosive remnants of war - efforts to which it contributes directly, actively and constructively.

46. It strives to convince its partners in CCW that technical solutions exist for the improvement of certain munitions so as to reduce the residual risks in the field, while taking into account the military, financial and technical dimensions of the proposed solutions.

47. France considers that this ambitious and pragmatic approach, which is open to all, offers a promising path for moving matters forward. It provides States parties with an opportunity to make meaningful progress towards better addressing their humanitarian concerns, without jeopardizing their defence interests.

48. Operational and humanitarian concerns are not opposed to one another, but must be able to coexist more closely.

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