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Agenda item 7

**Application and implementation
of existing international humanitarian law
to specific munitions that may cause
explosive remnants of war, with particular focus
on cluster munitions, including the factors affecting
their reliability and their technical and
design characteristics, with a view to minimizing
the humanitarian impact of the use of these munitions**

POSITION PAPER ON CLUSTER MUNITIONS

Submitted by the Russian Federation

1. Under current military doctrine, “the Russian Federation maintains a readiness to make war and participate in armed conflicts solely for the purpose of preventing or countering aggression, protecting the integrity and inviolability of its territory and guaranteeing the military security of the Russian Federation and its allies in accordance with international treaties”.
2. In this context, the armed forces of the Russian Federation have undergone a substantial reform. Their combat strength and overall numbers, which have been significantly reduced, are maintained at the minimum necessary level.
3. In such circumstances, supplying the armed forces with high-quality and highly effective military assets becomes a matter of the highest importance.
4. When cluster munitions first appeared, they constituted a significant step towards enhancing the combat efficiency of conventional weapons systems. In the intervening years, they have been greatly improved and acquired new characteristics, including the ability to strike specified targets selectively. The various types of modern cluster munitions are reliable and safe to use, and ensure highly effective strikes against a very wide range of targets.

5. The adoption of cluster munitions made it possible to reduce several times over the size of the forces and assets engaged for tasks involving the use of firepower and the duration of their use. That is why cluster munitions are an important component of the armaments system which helps to maintain the combat potential of the armed forces at the required level in the context of the numerical restrictions adopted in the Russian Federation.

6. For several decades, a package of organizational and technology-related measures have been implemented during the production of cluster munitions and while they are in storage or in service with the armed forces of the Russian Federation. These measures fully comply with the requirements of section III of the technical annex to CCW Protocol V.

7. The Russian Federation believes that even now the proper application of the provisions of existing international humanitarian law can have a real humanitarian impact in areas of military conflict while the necessary military potential is maintained. Nevertheless, taking into account the special concern of a number of CCW parties at the consequences of the use of cluster munitions, Russia is ready to participate in discussion of this issue in a constructive manner.

8. The Russian Federation agrees with the view that, first and foremost, a common understanding of the term “cluster munitions” must be found.

9. During the work of the Group of Governmental Experts, Russian participants have offered several definitions of this term. While there are differences among them, in our opinion they reflect a common approach. This involves taking as a basis not the defining features of design and configuration (in our view, this means the presence of submunitions), but a number of secondary technical characteristics (precision, reliability, selectivity).

10. Russia’s approach is based on the following provisions of principle which we consistently uphold in discussing the issue of explosive remnants of war:

- (i) Any unexploded munitions containing an explosive substance present a humanitarian hazard;
- (ii) No technical device can be 100 per cent reliable;
- (iii) The definition of cluster munitions should reflect their fundamental design characteristics as technical devices.

11. For this reason, taking into account the humanitarian character of the tasks set out in the mandate of the Group of Governmental Experts, Russia suggests the following definition:

Cluster munitions are munitions (artillery shells, gravity bombs, bomb casings, guided or unguided missiles) containing submunitions in any quantity and designed to hit any type of target.

Submunitions contain a specific amount of explosive material whose energy is harnessed in order to strike the target.

Submunitions contain an explosive device which is designed to detonate the explosive substance it contains.

A munition is considered to be a cluster munition whether or not the submunitions it contains are equipped with:

- (i) Sensors which determine the presence and/or location of the target;
- (ii) A guidance system which ensures a direct strike on the target by the submunition.

12. This conception opens the way to a detailed discussion of the issue of cluster munitions as an integral part of the overall issue of explosive remnants of war, with a view to identifying the real humanitarian risks presented by the use of certain types of munitions.

13. Russia considers that the real humanitarian consequences of using cluster munitions stem principally from the manner in which the provisions of international humanitarian law are implemented in practice.

14. The technical parameters of cluster munitions, although important, are of secondary significance in this regard. That is why Russia thinks it is premature to impose legally binding quantitative restrictions on the technical characteristics of cluster munitions.

15. It would be better to draw up recommendations on best practice in this field, including, perhaps, the design of cluster munitions.

16. During our previous discussion, proposals were also put forward for restrictions on the use of cluster munitions depending on their service life. The Russian Federation does not share this approach, for the following reasons. We know that during their working life (including storage in stores, bases and arsenals), munitions, like any technical devices, suffer some loss of their initial characteristics, including reliability. The degree of such deterioration depends on the design, the durability of the materials used, the quality of production and the duration and conditions of service or storage. In practice, the period during which the quality of the munition declines to below acceptable limits can vary substantially, depending primarily on conditions of service and design characteristics. For that reason the age of a munition per se does not reflect the hazard it presents in terms of the possibility that it will become an explosive remnant of war.

17. As for practical steps that could be taken in the near future, Russia fully supports the proposal made by the Group of Governmental Experts that draft guidance should be prepared on best practice in improving the reliability of munitions, which could be used by States parties in their procurement systems.
