

**2008, First Session**  
**Geneva, 14-18 January 2008**  
Item 6 of the Provisional Agenda  
**Cluster munitions**

## **DEFINITIONS OF CLUSTER WEAPONS**

### **Submitted by France**

1. France considers it important that priority be given to consideration of the question of definitions at this first session of the Group of Governmental Experts, since definitions will be a central factor in determining the scope of the future instrument. France is not unaware of the fact that their formulation will be a delicate task. Cluster weapons are highly diverse; these weapons differ depending on their characteristics, the operational need that they serve and their impact on the ground. In view of this diversity, it would no doubt be best to focus on definitions that are sufficiently broad, while also seeking to strike a balance between the military constraints confronting States and the humanitarian progress that States wish to guarantee by virtue of the future instrument.

2. The work of the Group of Governmental Experts must focus on the technical aspects of these definitions. This is the contribution which this expert forum can make to other bodies that review humanitarian issues and to States that possess and use these weapons. This would appear to be the spirit of the mandate that States were given by the Convention on Certain Conventional Weapons (CCW). They should therefore:

- (i) Propose a simple and workable technical definition of the cluster weapons concerned; and
- (ii) Then consider the problems raised by their use, including the generation of explosive remnants of war.

3. Some States have already examined the question of definitions. Several contributions are on the table. While, on some points, they reflect differing points of view, they each have their merits and could and should help to throw light on the discussion. The proposed definitions put forward by Germany and the United Kingdom, which are consistent on many points with the French approach, and the position paper submitted by the Russian Federation in June 2007, contain many important elements:

- (i) To begin with, simplicity is of the essence; anything not included in the scope of the definition must remain outside the scope of the instrument to be drafted. Weapons that do not pose real humanitarian problems have no place then in the future protocol;
- (ii) The documents already submitted make two rather useful distinctions:
  - (a) First, separate definitions must be provided of cluster weapons and sub-munitions. These two items raise different sets of problems: a weapon is merely a vector (in English a carrier, container or canister) that serves as a container and is designed to release sub-munitions. It is sub-munitions, not the container, that make an impact on the ground and can cause humanitarian damage;
  - (b) Second, the definitions on the table make a useful distinction between explosive and non-explosive sub-munitions; only the first type can pose a risk and should therefore be included in the scope of the future protocol;
- (iii) With regard to the second phase of the process proposed by France, it would be useful, as suggested in the contributions mentioned above, to base the assessment of humanitarian risk on the criteria of reliability and accuracy - an approach similar to that adopted by the International Committee of the Red Cross.

4. These criteria take account of two kinds of technical issues:
  - (i) Intrinsic technical factors such as:
    - (a) The presence or absence of self-destruction, self-neutralization or self-deactivation mechanisms in sub-munitions;
    - (b) The existence or otherwise of a guidance system; and
    - (c) The reliability of sub-munitions, i.e. the likelihood that they will explode in the way that they are supposed to and will not become explosive remnants of war;
  - (ii) The number of munitions in each container, a criterion that can be used to define a threshold below which the humanitarian risk is very small.
  
5. With the documents submitted by several States, the Group of Governmental Experts therefore has a good basis for discussion. The best way to proceed would be to find an approach on which the broadest consensus can be achieved, always bearing in mind the objective of strengthening existing international humanitarian law substantially.
  
6. The priority work on definitions should begin with the definition of technical and operational aspects. A military and technical expert group would be best equipped to perform this task effectively. France hopes that the group will be mandated to consider the question of definitions and formulate conclusions that the Group of Governmental Experts should review at its April meeting. Once that has been done, it will then be possible to make more swift and more concrete progress on other key issues such as the scope of the future instrument.
  
7. Given the time available to the Group of Governmental Experts for completion of its work, it is clearly necessary, however, for the Group to move forward, in parallel, on all the points that will be identified for inclusion in the discussions.

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