

# IRELAND

## Oslo Conference on Cluster Munitions

~~Oral~~ Speaking Material

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### Ireland's Concerns

Ireland has repeatedly stated its concern about the impact on civilian populations arising from the use of submunition-based weapon systems. This concern is borne out by our own national experiences in both peacekeeping and humanitarian relief operations.

Our concerns have been twofold. Firstly, the characteristically high failure rate of submunitions creates an enduring explosive remnants of war (ERW) problem which, in a post-conflict environment, will by its nature have indiscriminate effects.

Secondly, the large volume of unguided submunitions delivered at each individual firing creates a wide footprint in the target area ~~and~~ gives rise to concern that the effects of these weapon systems when used in or close to concentrations of civilians - even when operating as intended - cannot be limited to exclusively military objectives. It is this consideration, in particular, which has led Ireland to call for a total ban on cluster munitions. The Minister for Foreign Affairs, Mr Dermot Ahern, was strengthened in this view on the occasion of his recent visit to Lebanon.

### Legal Context

The general legal framework is clear enough. The right of parties to an armed conflict to choose cluster munitions, in common with any other method or means of warfare, is not unlimited. It is limited in particular by the **basic rule** (Article 48 of the First Additional Protocol to the Geneva Conventions). This rule requires parties to a conflict at all times to distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly to direct their operations against military objectives only.

An attack that employs a method or means of combat the effects of which cannot be limited according to this basic rule is an indiscriminate attack. Indiscriminate attacks are prohibited.

From time to time we hear arguments that the international humanitarian law rule on proportionality authorises any type of attack provided that it does not result in civilian losses or damage that are excessive in relation to the military advantage anticipated to accrue from it. In our view however this proposition cannot be sustained because it is incomplete. It is of course necessary that an attack complies with the rule on proportionality. But alone this is not sufficient. Attacks must also comply always with the basic rule that they be directed against military objectives only. If the means of attack employed cannot adequately distinguish a military objective from nearby civilians and civilian objects, the attack will be indiscriminate and therefore prohibited.

Nor - it must be said - can an unheeded demand for the civilian population to evacuate an area in any way render lawful a subsequent attack using such means.

## **Experience of use**

The wide area effect of cluster munitions presents a severe hazard for the protection of civilians from the effects of hostilities. In armed conflict such hazards often arise because a weapon system is chosen for a purpose for which it was not designed or is ill-suited. In our view this is repeatedly the case with submunition based weapon systems used against military objectives located in or close to a concentration of civilians or civilian objects. Their use in such circumstances unavoidably leads to civilian casualties and/or destruction of civilian property. This is not merely unfortunate collateral damage – in the case of all but the largest military objectives it is also wholly foreseeable and inevitable.

These hazards may be exacerbated by additional factors. For instance, cluster bombs designed for low altitude delivery will perform in a very different manner when delivered from medium to high altitude. Delivery from higher altitudes unsurprisingly tends to broaden considerably the dispersal pattern of submunitions ejected from each dispenser. Delivery from higher altitudes therefore significantly affects the degree to which military objectives can be distinguished during attacks from civilian objects.

The firing of surface-launched cluster munitions at long ranges reduces the accuracy with which they can be expected to hit a target area. Their use from long range also makes it considerably more difficult to observe the fall of shot and to make the adjustments necessary to hit the intended target. Ground and atmospheric conditions also affect detonation rates.

Unsurprisingly when these problems arise in attacks launched against military objectives located in or close to concentrations of civilians the humanitarian consequences will be considerable.

In our view the use of cluster munitions that produce such humanitarian consequences is unacceptable and should be expressly prohibited.

(High failure rates will also inevitably affect the mobility of a user's own forces. Moreover - importantly in the context of most recent conflicts - clearance of unexploded ordnance in the post-conflict environment will often significantly impede or even prevent the timely establishment or restoration of economic and other conditions essential for the achievement of the political objective for which military action may have been deemed necessary in the first place.)

## **Objective**

Our position on this issue is inspired by our tradition of involvement in UN peace-keeping operations, in theatres such as Lebanon, former Yugoslavia and Eritrea, where our troops were exposed to the hazards inherent in clearance of unexploded cluster munitions and also witnessed the harm caused by cluster munitions to civilian populations. Irish troops were deployed with UNIFIL in South Lebanon from 1978 to 2001. Unexploded BLU-63 submunitions delivered to targets in 1978 were still being found and disposed of by Irish personnel 23 years later. During those 23 years, "dud" submunitions caused multiple civilian casualties in the Irish area of operations. Irish troops have now returned to South Lebanon in the aftermath of the recent conflict and are facing an even greater ERW challenge than that faced by their predecessors in 1978.

You have invited all of us here to begin work together towards the development of a new instrument of international humanitarian law that will ban the use of cluster munitions that have an unacceptable humanitarian impact. This is an important task. We agree that such an instrument should adopt an integrated approach in addressing this humanitarian impact and should therefore also prohibit transfers of these weapons, require destruction of stockpiles and make provision for clearing areas affected by cluster munitions and assist in the rehabilitation of victims. We support these objectives, as a significant step in the right direction.

While a total ban remains the national objective, we recognise that it is important to continue to work with other governments and civil society to make as much progress as possible in present circumstances. In order to be effective, any international instrument which emerges from the process being launched this week here in Oslo must generate a critical mass of support and momentum. It must have an inherent integrity. We look forward to working with those present here today, and others who may join our endeavour, to achieve an effective international instrument which will become the benchmark for the international community. In the absence of a ban, and pending an effective international instrument to address concerns regarding their use, we support the call for an immediate freeze on the use of cluster munitions.