

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

22 February 2011

Original: English

2011, First Session
Geneva, 21-25 February 2011
Item 6 of the agenda
Cluster munitions

Proposal for provisions on transfers for consideration in a CCW Protocol on Cluster Munitions

Submitted by Austria, Canada, Croatia, Denmark, Germany, Luxembourg and Switzerland

Article 1. General obligations

1. Each High Contracting Party undertakes never under any circumstances to:
 - (a) Transfer to anyone, directly or indirectly, cluster munitions;
 - (b) Assist, encourage or induce anyone to transfer cluster munitions.

Article 2. Scope of application

1. Article 1 of this Protocol applies, mutatis mutandis, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to aircraft.
2. The provisions of this Protocol do not apply to mines.
3. Notwithstanding the provisions of Article 1 of this Protocol, the acquisition of a limited number of cluster munitions and explosive submunitions for the development of and training in cluster munition and explosive submunition detection, clearance or destruction techniques, or for the development of cluster munition counter-measures, is permitted. The amount of explosive submunitions acquired shall not exceed the minimum number absolutely necessary for these purposes.
4. Notwithstanding the provisions of Article 1 of this Protocol, the transfer of cluster munitions to another State Party for the purpose of destruction, as well as for the purposes described in paragraph 3 of this Article, is permitted.

Article 3. Definitions

1. Transfer involves, in addition to the physical movement of cluster munitions into or from national territory, the transfer of title to and control over cluster munitions, but does not involve the transfer of territory containing cluster munition remnants;
2. “Cluster munition” means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:
 - (a) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
 - (b) A munition or submunition designed to produce electrical or electronic effects;
 - (c) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
 - (i) Each munition contains fewer than ten explosive submunitions;
 - (ii) Each explosive submunition weighs more than four kilograms;
 - (iii) Each explosive submunition is designed to detect and engage a single target object;
 - (iv) Each explosive submunition is equipped with an electronic self-destruction mechanism;
 - (v) Each explosive submunition is equipped with an electronic self-deactivating feature;
3. “Explosive submunition” means a conventional munition that in order to perform its task is dispersed or released by a cluster munition and is designed to function by detonating an explosive charge prior to, on or after impact.

Article 4. Transparency measures

1. States Parties acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 3 and 4 of Article 2 shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations no later than day/month of the following year.
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