

# DIPLOMATIC CONFERENCE FOR THE ADOPTION OF A CONVENTION ON CLUSTER MUNITIONS

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## Proposal by Spain for the amendment of Article 2

For the purposes of this Convention:

(...)

“**Cluster munition**” means a munition that is designed to disperse or release explosive sub-munitions, and includes those explosive sub-munitions. It does not mean the following:

- (a) a munition or sub-munition designed to dispense flares, smoke, pyrotechnics or chaff;
- (b) a munition or sub-munition designed to produce electrical or electronic effects;
- (c) **a munition that does not cause unacceptable harm to civilians and has all the following characteristics which minimise its area effect and the risk of unexploded ordnance contamination from its use:**
  - (i) **a munition which contains sub-munitions which only address the area encompassed by the intended military objective;**
  - (ii) **each sub-munition is equipped with an electronic self-destruction mechanism;**
  - (iii) **each sub-munition is equipped with an electronic self-deactivation mechanism;**

“**Explosive sub-munitions**” means ~~munitions that in order to perform their task separate from a parent munition and are designed to function by detonating an explosive charge prior to, on or after impact;~~ **a conventional explosive munition, which is designed to separate from a cluster munition and to detonate on, prior to or after impact on a target;**

“**Military objective**” means, **so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage;** [from Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons, and also from Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and other Devices].

“**Self-destruction mechanism**” means **an incorporated or externally attached automatically-functioning mechanism which secures the destruction of the munition into which it is incorporated or to which it is attached;** [from Amended Protocol II]

**“Self-deactivating” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example a battery, that is essential to the operation of the munition;** [from Amended Protocol II]

(...)

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**Rationale for the proposed Article 2(c)(i):**

Concerning the proposed definition: the intention is to establish a relationship between accuracy and the final effects, irrespective of the specific means of delivery used (GPS direct observation of the military objective, guided weapons, sensor fuze weapons, ...).

Concerning the use of the concept “military objective”, it is proposed to employ the agreed and consolidated concept in international law.

**Further explanation on the use of cluster munitions for the protection of civilians and civilian objects (adapted from Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons):**

- a) It is prohibited in all circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by cluster munitions.
- b) It is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by cluster munitions.
- c) It is further prohibited to make any military objective located within a concentration of civilians the object of attack by means of cluster munitions except when such military objective is clearly separated from the concentration of civilians and all feasible precautions are taken with a view to limiting the cluster munitions effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.