

Dublin Diplomatic Conference on Cluster Munitions – 19-30 May 2008  
Statement by CANADA  
Article II – Definitions

Mr. Chair, Excellencies, Ladies and Gentlemen,

As mentioned in our statement on Article 1, Scope and Obligations, it is Canada's view that the current definition of cluster munitions is too far reaching, as it could be interpreted to cover all area weapons with more than one explosive sub-munitions which currently exist, as well as all that might be developed at any time in the future.

Further, this definition placed within the context of this Convention, reflects what is to us, an indefensible presumption -- the presumption that none of the more than 200 existing types of what we currently call cluster munitions and none of those that may be developed at anytime in the future, are now nor will ever be sufficiently accurate and reliable to meet the standards of international humanitarian law as it pertains to the conduct of war.

Mr. Chair, when Norwegian Foreign Minister Store initiated this process he was clear that Norway sought a ban on cluster munitions that cause unacceptable humanitarian harm. Canada, like all countries here as participants, has declared our support for just such a ban. It does not logically follow, however, that all of what is currently covered by this open ended definition, causes unacceptable humanitarian harm.

Some States, the ICRC, and the Cluster Munitions Coalition contend that it is not sufficient for weapons to have self destruct, self-deactivation or self neutralizing features; that there should be no exception for munitions based solely on factors such as the capacity to detect, engage and strike targets within a pre-defined area; and no exception for electronic "sensor fuzing" technology.

--Canada agrees that none of these factors in isolation is enough to ensure both accuracy and reliability to acceptable standards. Taken in combination, however, as suggested by the ICRC, they could possibly fall within acceptable parameters.

Canada would propose, therefore, that Article 2 (c) of definitions state that cluster munition: "does not mean a munition that is sensor-fused and has an electrical – based fail safe system".

This proposal is based on the presumption that weapons with all these features can now or can be developed to meet standards of reliability and accuracy, not just in test environments, but during actual use, which is the only place it counts.

**It's been further suggested by the ICRC, the United Nations and NGOs that the burden of proof rests with States to ensure that any proposed exclusions from the definition of cluster munitions, will not cause unacceptable harm to civilians.**

**Once again, we are in agreement. As we all know, the legal obligation to ensure that weapons do not cause unacceptable harm to non-combatants already exists within the Geneva Conventions. The moral obligation exists in any case.**

**If the forgoing proposal for Article 2 (c) is accepted, Canada would strongly advocate a total ban of cluster munitions, as so defined.**

**Thank You.**

*Drafted and Delivered by Earl Turcotte, Head of the Canadian Delegation.  
Consulted : Canadian Delegation*

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