

Explanation of Vote at the 70th UN General Assembly First Committee on Draft Resolution L.49/Rev.1, "Implementation of the Convention on Cluster Munitions"

New York City

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As delivered by Ambassador Robert A. Wood

Permanent Representative to the Conference on Disarmament

Mr. Chairman, my delegation has abstained on draft resolution L.49/Rev.1, "Implementation of the Convention on Cluster Munitions." The United States is not a party to this convention and as such is not bound by its provisions. We consider this resolution applicable only to those States Parties to this Convention, in particular those paragraphs calling for the Convention's full and effective implementation.

It strongly remains the U.S. view that when used properly in accordance with international humanitarian law, cluster munitions with a low unexploded ordnance, UXO, rate provide key advantages against certain types of legitimate military targets and can produce less collateral damage than high explosive, unitary weapons.

Although cluster munitions remain an integral part of U.S. force capabilities, the United States is committed to reducing the potential for unintended harm to civilians and civilian infrastructure caused by either the misuse of cluster munitions or the use of cluster munitions that generate a large amount of UXO. Under the Department of Defense's 2008 Cluster Munitions Policy, by the end of 2018 DOD will no longer employ cluster munitions with a UXO rate greater than one percent. In addition, by U.S. law, the United States does not transfer cluster munitions to other countries except those that meet the 1% UXO rate.

We note the references to "the principles of humanity and the dictates of public conscience," which flow from the Martens Clause. While the United States believes that "the principles of humanity and the dictates of public conscience" can provide a relevant and important paradigm for discussing the moral or ethical issues related to warfare, the Martens Clause is not a rule of international law that prohibits any particular weapon, including cluster munitions.

In general, the lawfulness of the use of a type of weapon under international law does not depend on an absence of authorization, but instead depends upon whether the weapon is prohibited. The United States does not accept by this or any other standard that the Convention on Cluster Munitions represents an emerging norm or reflects customary international law that would prohibit the use of cluster munitions in armed conflict.

Thank you, Mr. Chairman.