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Background information and suggested questions for MPs

TOWARDS AN INTERNATIONAL TREATY BANNING CLUSTER MUNITIONS

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What are cluster munitions?

- Cluster munitions are weapons which consist of large numbers of submunitions.
- They are either dropped by aircraft or fired from the ground.
- They are intended to detonate on impact and disperse shrapnel over a 50-metre radius.
- The total 'footprint' of each munition can reach up to one square kilometre.
- The military rationale for cluster munitions rests on their 'economy of fire', which theoretically reduces the financial, logistical and human cost of operations by enabling forces to engage a larger enemy.

Warfare has changed in ways which undermine the military utility of cluster munitions. The latest armoured tanks can withstand the weapon, and modern conflicts are often located in civilian areas, making the humanitarian cost of using cluster munitions illegitimately steep.

Impact on civilians

Cluster munitions have both immediate and long-term consequences for civilians. In addition to the death and maiming caused during actual attacks, post-conflict effects include:

- preventing the return of displaced civilians and hampering reconstruction and development
- lingering risk to civilians returning to affected areas, especially children who are almost five times more likely to suffer casualties due to the submunitions' resemblance to toys
- obstructing humanitarian agencies and peacekeepers from carrying out their duties

Legal considerations

International humanitarian law prohibits the use of weapons and methods of warfare designed to cause superfluous injury. Additional Protocol I (1977) of the Geneva Conventions contains four rules that pertain to the use of cluster munitions in or near populated areas:

- Rule of proportionality: attacks must balance military advantage with civilian impact
- Rule of distinction: attacks must distinguish between military and civilian objects
- Rule against indiscriminate attacks: attacks unable to distinguish are prohibited
- Rule on feasible precautions: maximum care must be taken to avoid civilian injury

Progress towards a treaty

There is growing recognition that cluster munitions pose an unacceptable threat to civilians, that their putative military advantage does not justify the degree of humanitarian loss, and that their legality under international humanitarian law is questionable. Efforts are therefore underway to establish an international treaty regulating the use of cluster munitions.

At the UN attempts to set up such a treaty have been focused in the Convention on Conventional Weapons (CCW). The CCW succeeded, in 2003, in establishing the first multilateral agreement aimed at minimising the post-conflict civilian impact of conventional weapons: Protocol V on Explosive Remnants of War (ERW). But the CCW has so far failed to address cluster munitions specifically, and so recent bids to set up a prohibition regime – most notably the Oslo Process (so called because of Norway's leadership) – have occurred outside the CCW's framework.

The Oslo process:

- In Oslo in February 2007, Norway initiated a process to conclude, by 2008, a legally binding international instrument prohibiting the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians.

- It is hoped that the treaty would also strengthen existing international humanitarian law and improve compliance; set narrower conditions for the use of cluster munitions; enhance transparency among producers and stockpilers; and improve post-conflict remedial measures.
- Explicit mention of a moratorium on the use of cluster munitions was removed from the Oslo declaration; only cluster munitions causing unacceptable harm were left within the scope of the proposed treaty.
- Forty-six states signed up to the Oslo declaration, with many emphasising the continued UN role in developing a treaty.
- In May, 27 more states joined the process at a second conference in Lima, Peru.
- Eighty states from five continents now participate in the process, including 19 producer states, seven users, 34 stockpilers, and 11 states affected by the weapons.
- In December 2007 in Vienna, negotiations on the text of the treaty will take place. Agreement will need to be reached on definitions of the weapon and what constitutes "unacceptable harm" to civilians.
- Further meetings are scheduled for February and May 2008, in Wellington and Dublin respectively, before the treaty is opened for signature in Oslo.

The position of the UK government

The UK was among the states which signed the Oslo declaration in February 2007. In March, the British Defence Secretary announced that the UK will cease use of 'dumb' cluster munitions while retaining 'smart' models, which have target discrimination or self-deactivation mechanisms that decrease failure rates. At the Lima conference in May, the UK along with Australia, Argentina, Japan, France, Finland and Poland were reported as advocating definitions of cluster munitions which would create exceptions within the planned treaty for munitions with self-destruct mechanisms.

But smart munitions still fail. The humanitarian threat remains, as does the risk that the weapons could be improperly used. UNA-UK, with its partners in the Cluster Munitions Coalition, is calling for an international treaty banning the use of all forms of cluster munitions.

What should the government do?

- Declare an immediate moratorium on the use of all cluster munitions until an effective international treaty regulating their use is in place.
- Announce an immediate freeze of the manufacture and transfer of 'smart' M85 submunitions and move towards the destruction of its stockpiles.
- Encourage other users and stockpilers of the weapon that have not already joined the Oslo process to do so.
- Undertake further research into the failure rates of all stockpiled cluster munitions, and re-evaluate its distinction between so-called 'dumb' and 'smart' models.
- Ratify CCW Protocol V on Explosive Remnants of War (ERW).

Ask your MP:

- To urge the government to endorse an immediate moratorium on the use of all cluster munitions.
- To call on the government to take a lead by renouncing the use of cluster munitions and initiate disposal of its own stockpiles.
- To ask the government to fulfil its stated support for the strongest possible treaty banning cluster munitions by re-evaluating the distinction between so-called 'dumb' and 'smart' models.
- To write to the Defence Secretary asking him to reconsider the decision to remove the Hydra CRV-7 rocket system from the list of cluster munitions.
- To sign EDM 1663 urging the government to cease holding and using M85 cluster submunitions, large numbers of which were found, unexploded, by the UN in southern Lebanon after the recent conflict there.
- To sign EDM 1501, which notes cluster munitions constitute a "fatal footprint" on people and communities and will pose a threat "to innocent civilians trying to carry on their lives for decades into the future".