

Germany

Conference on Cluster Munitions

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Statement by

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Excellencies,
Ladies and Gentlemen,

Germany welcomes the Norwegian initiative on Cluster Munitions. We thank the Government of Norway for organizing this conference and for giving additional impulse to dealing with a pressing humanitarian concern.

Germany fully shares the vision of the Oslo Conference: The common goal to ultimately **eliminate the humanitarian suffering caused by Cluster Munitions**. Our Federal Parliament recognized the urgency of the issue in its motion entitled "*Prohibition of dangerous cluster munitions – further development of international humanitarian law*".

Germany shares the aim to conclude, with the broadest possible membership and as early as possible, a **legally binding international instrument** to adequately address the humanitarian impact caused by cluster munitions.

The main elements of such an international instrument are highlighted in the "***Declaration on Cluster Munitions***" adopted by 25 nations at the margins of the CCW Review Conference last November; they are:

- a prohibition to use cluster munitions within concentrations of civilians
- a prohibition to develop, produce, stockpile, transfer and use such types of cluster munitions that pose serious humanitarian hazards,
and
- an obligation to destroy such hazardous cluster munitions.

The "25 Nation Declaration" also contains draft language for a concrete **definition of cluster munitions**. This text is based on the draft "*Common Understanding on Cluster Munitions*" which was initiated by Germany and, after thorough discussion, introduced as an official CCW working document in September 2006 (CCW/GGE/XV/WG.1/WP.3)

Building on these efforts, **our legal experts are at present working on a set of draft elements for a possible legal instrument on Cluster Munitions.**

Key provisions should, in our view, include:

- a clear scope of application, comprising the use as well as the functional reliability of cluster munitions
- definitions of the key legal terms
- language on the protection of civilians and civilian objects
- rules on transfers, destruction, use, production and compliance.

We are fortunate not to start at point Zero: A lot of work has been done and is underway both by states, by international institutions such as the ICRC, and by civil society on which we all can build.

Protocol V of the UN Convention on Certain Conventional Weapons (CCW) dealing with the issue of responsibility for unexploded ordnance at the end of a conflict represents a major step forward. It should be universally adopted and fully implemented; duplication should be avoided.

As the post-conflict-oriented scope of Protocol V remains insufficient, an additional international instrument is needed, as mentioned before. **My Government is convinced that this instrument should be negotiated and finalized within the CCW process, under a CCW negotiation mandate to be adopted this year.**

While the Oslo Conference and possible future follow-up meetings can provide important momentum on the issue of Cluster Munitions, **the CCW process seems to be, under the present circumstances, the adequate forum to ensure the full participation of the main holders and users of Cluster Munitions. Without their participation, our common goal of substantially enhancing the protection of civilians against hazardous Cluster Munitions can hardly be achieved.**

The fact that the recent **CCW Review Conference adopted, for the first time, a specific mandate on Cluster Munitions** is encouraging. This mandate foresees work of a governmental expert group and also specifically refers to the forthcoming ICRC expert meeting. The next step must be the adoption of a negotiation mandate. If this is not achieved this year, the CCW risks seriously damaging its credibility.

States that have not yet joined the CCW family should do so at their earliest convenience and thus add their weight to this important global humanitarian process.

Ladies and Gentlemen,

While international diplomatic efforts are underway, several states have undertaken concrete national measures to reduce the dangers posed by Cluster Munitions.

As for the German Armed Forces, they operate already today under clear and binding restrictions; key restrictions are as follows:

- no procurement of any new Cluster Munitions by the German Armed Forces
- no employment of any kind of Cluster Munitions except when no suitable alternative munitions are available
- no use of cluster munitions whose rate of dangerous duds is higher than 1%,
and
- in 2015: evaluation with the aim of entirely replacing Cluster Munitions by alternative munitions.

National restrictive measures are important but not sufficient. Germany therefore remains fully committed to closely cooperating with the international community with a view of finalizing and implementing sound and globally effective rules which will protect the civilian population from the scourge of hazardous Cluster Munitions.

Thank you.

**Federal Foreign Office / Federal Ministry of Defence:
8-Point-Position on Cluster Munitions**

1. "Cluster munitions" means a munition, which contains submunitions with explosives. These are deployed by means of delivery and are designed to detonate on impact with a statistical distribution in a pre-defined target area. Cluster munition delivery means include artillery shells, missiles or aircrafts. The Characteristics of cluster munitions are a lack of an autonomous target detection capability and a usually high number of dangerous duds that pose serious humanitarian concerns after the use. The term "cluster munitions" does not cover direct-fire munitions, flares and smoke ammunition, sensor-fused ammunition with an autonomous target detection capability, submunition without explosives or landmines.
2. With immediate effect, the Bundeswehr will not procure any new cluster munitions.
3. Depending on technical and financial aspects, the mid-term planning is to shift the emphasis for munition against area targets away from cluster munitions towards alternative munitions.
4. In the long term, it will be examined whether the existing cluster munitions can be entirely replaced by alternative munitions.
5. The German Air Force will no longer use cluster munitions after the TORNADO weapon system has been phased out.
6. With immediate effect, the German Army will cease using the cluster munitions DM 602 and DM 612 as the rate of dangerous duds that pose serious humanitarian concerns after the use is higher than 1%, and as a retrofit cannot be justified economically.
7. The employment of cluster munitions is only envisaged when no suitable alternative munitions are available.
8. Depending on the financial situation, the procurement of alternative munitions will have priority over the destruction of cluster munitions.