

## **Speech by Deputy Minister of Defence, Mr Espen Barth-Eide**

Excellencies, Ladies and Gentlemen, dear colleagues and friends: It is a great pleasure for me to welcome you here tonight, after what I understand has been a fruitful first day of this crucially important conference.

This conference gives us the opportunity to discuss how to deal with the humanitarian problems caused by the use of cluster munitions. Its aim is to establish a process that will enable us to address this highly pressing issue in an effective manner.

For it is indeed a pressing issue. Not only because unexploded submunitions – in the way they are already being used – will continue to cause civilian casualties years, even decades, after cluster munitions have been used in previous conflicts.

But also to prevent their transfer to new actors - be they states or non-state actors. If we fail to address the problem now, what is now controllable may easily turn into a disaster of global dimensions.

The Norwegian Government is determined to help start a process addressing the concerns caused by cluster munitions as a matter of urgency. And it is important for me to underline that this view is fully shared by the Ministry of Defence.

The Armed Forces represents the most powerful tool in the State's inventory. At the extremes, it is called upon to fight for the nation's survival, whereas in more ordinary times, it is used in the interest of the collective international will, as in contemporary peace operations. In either case, we are talking about the application of potentially deadly force in order to achieve a political goal.

As politically responsible for the Armed Forces, we have a particular ethical responsibility to think hard about its legitimate application. Both the Ministry – and the Military leadership itself – is keenly interested in contributing to the international quest for a clear and progressive regulation both of weapons stocks and of their legitimate use.

Since there are moments in time when military force has to be used; the overriding aim must be to avoid – to the maximum extent possible – unnecessary loss of civilian lives and the destruction of civilian livelihoods. This is paramount during the fighting itself, but equally important, in its aftermath.

The need for new regulation

The idea that military force and the use of specific weapon types should be regulated by international conventions is not a novel idea. The first rules governing the use of force can be traced back to ancient civilizations and religions.

Already in the 19th century, it was codified into international treaties that the right of belligerents to choose methods and means of warfare is not unlimited.

And since then, a number of international treaties have prohibited or restricted the use of specific weapons; from the 1868 St. Petersburg Declaration prohibiting the use of exploding bullets and the perhaps more curious 1899 1st Hague Declaration prohibiting the launching of projectiles and explosives from air balloons, the 1925 prohibition of poison gas - to the more landmark victory in 1997 prohibiting anti-personnel mines.

Nor are the efforts to prohibit the use of cluster munitions that cause unacceptable harm to civilians a new idea. Already in the 1970s, many were concerned by the use of cluster munitions in the Wars in Indochina.

In 1976, Norway joined a small group of States that proposed that “anti-personnel cluster warheads or other devices with many bomblets should be prohibited from use”. Both these and subsequent efforts to regulate the use of cluster munitions as such have, however, so far failed to gain the necessary support.

This is not to say, of course, that the use of cluster munitions is exempt from any regulation under International Humanitarian Law today. The use of cluster munitions, like the use of all other types of weapons, is restricted by the general obligations, on the one hand, to distinguish between military objectives and civilians, between combatants and non-combatants, and, on the other hand, not to conduct attacks where the civilian harm caused is disproportionate to the military gain expected from the attack (codified in the Additional Protocol I to the Geneva Conventions in 1977).

States disagree, however, on how these rules should be interpreted and implemented in practice with regard to the use of cluster munitions.

Conflicts worldwide show that cluster munitions, an area weapon originally designed for use against military targets located in open spaces, is in fact extensively being used in populated areas. This makes the lack of agreement on a regulation of the use of these munitions even more acute.

Furthermore, these general obligations fail to address many of the specific concerns related to cluster munitions, such as the need to stop the production, transfer and use of the types of munitions that cause unacceptable harm, to ensure their destruction and to secure the necessary assistance for the clearance of contaminated areas and the rehabilitation of victims.

Other concerns

Much has been said about the humanitarian reasons for prohibiting the use of cluster munitions that cause unacceptable humanitarian problems. I would, however, like to point out two other important concerns:

The first concern, seen with military eyes, is the fact that the use of munitions that are inaccurate or leave large numbers of unexploded ordnance after use may also cause significant problems for the military forces themselves.

As our Generals tell us, the use of inaccurate or malfunctioning munitions in a military operation means having to spend more ammunition to achieve a given military objective. This implies reduced efficiency, increased costs, as well as increased risks to your own personnel, who may be forced to spend more time in an area before the military aim is achieved, thus making the unit more vulnerable for counter-attack. Additionally, causing large numbers of unexploded ordnance on the ground may also constitute a significant risk to your own personnel and reduce mobility if there is a need to move through the contaminated area at a later stage.

The second concern I would like to touch upon is an issue which I find has received far too little attention thus far; namely the fact that the use of cluster munitions that cause enormous humanitarian problems both during and after the conflict may in fact undermine the overall (political) aim of the military operation.

In modern-day multilateral peace operations, be they peace-keeping or peace-enforcement, the military is but one component of an overall strategy to promote stability, development and democratic change. There is no such thing, then, as an isolated military success. And what might seem logical for a military commander during the heat of the action can come back to haunt us at a later stage. The case of the 1999 Kosovo war is a case in point; precisely in the year that the future status of Kosovo is to be finally determined, we could probably do well without the negative perception caused by the continued threat of unexploded cluster munitions in Serbia, almost eight years after the action.

A similar situation can be found in present-day Lebanon. The long-term effects of inaccurate cluster munitions reduce the effect of humanitarian assistance, post-conflict reconstruction and development efforts. This, in turn, creates new tensions. Hence, past weapons use directly undermines the long-term political goals it was supposed to foster.

### Definitions and national policy

To the extent that cluster munitions, to date, have been on the international agenda, much of the focus has been on how to define the term “cluster munitions” – or more specifically; how to define which kinds of cluster munitions should be prohibited.

I believe there is broad agreement that it may not be necessary to ban all types of cluster munitions. The term cluster munitions may encompass a vast number of very different munitions types, and not all of these types pose the same humanitarian concerns.

I find, however, that this is a topic that must be further addressed in the coming process, and that must be decided on the basis of thorough discussions and a balancing of humanitarian and military needs.

The Norwegian Government is determined to keep an open mind on this issue, also with regard to the two types of cluster munitions we still have in stock. This is one of the reasons why the Minister of Defence in November last year decided to prolong the already established moratorium on the use of these munitions until we have reached agreement on an international, legally-binding instrument.

Another reason for prolonging the moratorium was that recent experience from the use of similar ammunition types in Lebanon gave rise to serious concerns with regard to how conditions in combat may influence the reliability of munitions, compared to controlled test conditions. Although the two types of cluster munitions in Norwegian stock have been regarded as among the best on the market today, and despite the fact that they have proved very reliable in testing, we find that these are important concerns that merit further consideration.

I very much welcome the announcement made by the Government of Austria today about their national moratorium.

## Conclusion

In conclusion, let me say that I am very happy to note the large number of countries represented here tonight, as well as the broad representation from the UN organizations, The International Committee of the Red Cross and from Civil Society.

I find this an encouraging sign of the growing recognition of the problem worldwide, and as a sign that there is growing agreement that the problem of cluster munitions must be urgently and effectively dealt with, before it turns into a global humanitarian disaster.

I trust that you will all contribute to creating an international instrument that can effectively deal with the humanitarian hazards caused by the use of cluster munitions.

It will undoubtedly be a difficult and challenging process, but with concerted efforts, I am convinced we will achieve our aim. History shows that it can be done.

With these words, I would like to wish you all a pleasant evening here at Soria Moria, and also the best of luck, both with the remainder of this conference and with the coming process.

Let me conclude by offering you a Norwegian “skål” – to the speedy progress in our joint endeavour in making the world at least a little safer.