



**Statement by Marion Libertucci on Retention
Delivered on behalf of the Cluster Munition Coalition
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All through the discussions and negotiations leading to the adoption of the Convention on Cluster Munitions, the need of retaining and acquiring cluster munitions and explosive submunitions for training, development, and military counter-measures has been questioned by the CMC. The decision by negotiating States for having the Article 3.6 was led by a handful of countries and mainly based on the Mine Ban Treaty precedent, but these States have never demonstrated that any of the three purposes mentioned above are essential to justify an exception to the general prohibition of stockpiling.

While we are not convinced that any State needs to retain any cluster munitions, we are fully convinced that retaining cluster munitions should be the exception, not the rule. We already heard that several stockpiler States like Colombia, Austria or Norway present here have made this analysis and decided not to retain or acquire cluster munitions or submunitions. We urge all other signatory States to take the same decision.

Indeed, no specific justification has been given for retaining live submunitions as detection and clearance training aids for either humanitarian or military clearance personnel. To our knowledge, no ordnance clearance organisation accredited by the United Nations uses live submunitions for clearance training – on the contrary, the introduction of live items of ordnance into training would contravene the standard operating procedures of experienced clearance organisations. Adequate technologies already exist to detect unexploded submunitions. The need for live submunitions for counter-measures is not established, and States have not made it clear that it is common practice to use live submunitions for these kinds of tests. Moreover, the retention, acquisition and transfer of submunitions and cluster munitions for the development of military counter-measures could be interpreted so widely by individual States that it could constitute a substantial loophole in the Convention.

In spite of all these facts, if some States do decide to retain cluster munitions, they should explain now how many cluster munitions and submunitions they have used in the past for training, testing and counter-measures, over how many years, and for what precise purposes. This will permit the States Parties to understand what acceptable uses might be, and what the “minimum number absolutely necessary” is. Every country deciding to retain cluster munitions should also carefully evaluate their real needs, precisely report on the number and type of retained cluster munitions, and be ready to regularly review the number of retained cluster munitions and submunitions.

We believe “the minimum number absolutely necessary” should be zero. Those who do decide to retain submunitions should be able to clearly articulate how they determine what the minimum number is in their case. If many stockpiler countries joining the Convention decided to keep a high number of submunitions, this would give a negative signal to the international community on the real willingness by States Parties to completely get rid of cluster munitions in the world, and would contribute in weakening the treaty.

CMC is also deeply concerned that the procurement by States Parties of cluster munitions from non States Party user and producer countries could create a parallel and unregulated “traffic” of international acquisitions and transfers that could undermine the spirit and purpose of the treaty. If some States consider they need samples of submunitions for training, development and counter-measures, they should already have them in their possession and not need to acquire new ones, as nearly all existing submunitions types have been available for many years. Therefore we strongly encourage States to avoid this practice of acquisition.

We will continue to question the need for retaining cluster munitions or submunitions; we recognise that States are engaged in a debate about this need, but there should be no debate that they must avoid the situation created by the retention provision under the Mine Ban Treaty, with many States keeping mines even when they have no clear need for them, and many simply keeping them in store without ever using them for the permitted purposes, or any purpose.

Thank you Mr. Chairman.