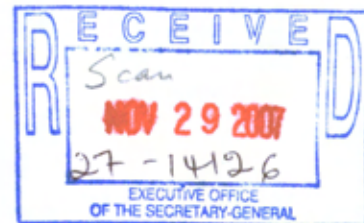


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Note to Mr. V. Nambiar

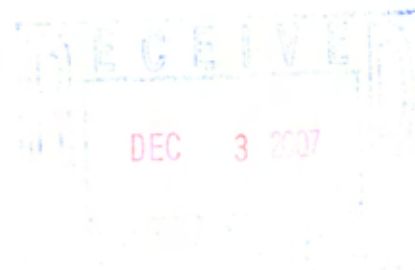
CLUSTER MUNITIONS: TWO PROCESSES

1. I became aware that there are proposals being discussed for a statement to be made at the Vienna Conference on Cluster Munitions on 5 December by UNDP on behalf of UN agencies that are members of the Inter-Agency Coordination Group –Mine Action Team (IACG-MA).
2. I stand by the recommendation made in the Note sent to the Secretary-General on 21 November. In that regard, I herewith submit a draft statement that might be used by the Secretary-General's Spokesperson. The attached draft statement would be in accordance with the approach recommended in paragraph 5 of the above-mentioned Note.

A handwritten signature in black ink, consisting of a series of loops and strokes, identifying Sergio Duarte.

Sergio Duarte
29 November 2007

cc : Mr. Guehenno
Mr. Kim



Draft

**Statement attributable to the Secretary-General of the United Nations
on the occasion of the Vienna Meeting on Cluster Munitions,
5-7 December 2007
(To be read by the Secretary-General's Spokesperson)**

"I am watching closely the international community's efforts to address the issue of cluster munitions. I have on several occasions made known my views that the inhumane impact of these weapons requires urgent action. I have urged Member States to prohibit cluster munitions that cause unacceptable harm to civilians, and to take domestic measures to freeze the use and transfer of all cluster munitions until a new legal instrument is adopted.

I very much hope that all efforts to deal decisively with this issue will intensify over the year ahead. Member States gathering in Vienna at the beginning of December will have an opportunity to give further impetus towards the success of these efforts, and I wish them well. These are high humanitarian, human rights and developmental stakes."

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Note to the Secretary-General

CLUSTER MUNITIONS: TWO PROCESSES

(#27-13447)

1. Please refer to the attached note, dated 9 November, on the "Issue of Cluster Munitions: Secretary-General's Message to the Parties of the Conventional Weapons Convention", which sought to draw your attention to concerns raised by several Member States in relation to the latest UN position on the issue of cluster munitions as contained in your message of 7 November to the Meeting of States Parties to the Convention on Certain Conventional Weapons (CCW).
2. The matter of cluster munitions remains sensitive. One group of States, including the United States and Russia, strongly favors addressing the issue of cluster munitions within the CCW framework. Recently, CCW States Parties decided to set aside seven weeks in 2008 to "negotiate a proposal to address urgently the humanitarian impact of cluster munitions, while striking a balance between military and humanitarian considerations." Accordingly, the CCW Group of Governmental Experts will meet for the first time from 14-18 January 2008 in Geneva.
3. Another group of like-minded States led by Norway, Peru, Austria, New Zealand, and Ireland, are committed to developing an instrument of international humanitarian law by the end of 2008 that prohibits the use, production, transfer and stockpiling of cluster munitions that cause unacceptable harm to civilians (known as "Oslo process"). The next meeting of the Oslo process will take place in Vienna, Austria from 5-7 December.
4. The States involved in both processes are seeking your expression of support. We continue to believe that in this matter in coming months you should engage cautiously by focusing on the need for a legally binding instrument on cluster munitions on humanitarian grounds rather than on the processes that develop such an outcome.
5. States engaged in the Oslo process may encourage you to send a message to the forthcoming Vienna meeting in the coming days. Taking into account the political sensitivities, a message from you might be perceived by those States not participating in the Oslo process as an expression of preference for the Process. We therefore recommend that a brief, balanced statement be delivered by your Spokesperson at the time of the meeting. The statement would reiterate your concern over the humanitarian, human rights and development impact of cluster munitions, urge Member States to negotiate a legally-binding instrument of international humanitarian law that responds to these concerns, and express support for all endeavors that seek to reduce, and ultimately eliminate, the impact of cluster munitions on civilians.


for Jean Marie Guéhenno


Sergio Duarte
21 November 2007

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deact with ✓

Received from PR of Russia
on NOV. 19, 2007

19 November 2007

In the course of the current Conference of **the Convention on Certain Conventional Weapons** in Geneva special attention was paid to the address of the UN Secretary-General on the issue of cluster munitions, where he called for the immediate signing of a legally binding agreement that would prohibit their production, use and supply. In the view of the UN Secretary-General, the states must take measures to “immediately freeze” the use and transfer of cluster munitions.

The address of the UN Secretary-General was presented against the background of persistent over the recent years serious differences on the issue of cluster munitions. The intensive expert examination of these issues is going on within the CCW framework in order to find a balance of interests between legitimate military requirements of the states and the need to reduce the risks for the civilian population from the use of cluster munitions.

A number of Norway-led states – “the anti-cluster bomb coalition” – have launched a parallel negotiations process (the so-called “Oslo process”) with a view to the earliest signing of an international agreement that would prohibit or strictly limit the use

cc: Political Unit

of cluster munitions. This process does not involve major producers and users of cluster munitions, i.e. Russia, the United States, China, India, and Pakistan. However, the UN Secretary-General in his address actually reproduced the appeals of the “anti-cluster bomb coalition”, ignoring the opinion of those who consider the prohibitive measures to be premature. Thus, he questions the authority of the CCW and its relevance to addressing the cluster munitions problem for the sake of the “Oslo process”.

We believe that the UN Secretary-General departed from an objective and impartial assessment of the situation by giving his unequivocal support to one of the parties in the dialogue. Such an approach may be harmful to the regular work of the CCW conducted – unlike the “independent” “Oslo process” – under the UN auspices.

V.23

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Copies should be
sent to :

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if not yet done &

ckl,

Note to Mr. Nambiar

**Message of the Secretary-General to the 2007 meeting of the High Contracting
Parties to the Convention on Certain Conventional Weapons (CCW)**

Please find attached a note to the Secretary-General drawing his attention to the issue of cluster munitions dealt with in the Secretary-General's message of 7 November, which I delivered on his behalf at the opening of the current Meeting of the States Parties to the Conventional Weapons Convention (CCW) this week in Geneva.



Sergio Duarte
9 November 2007

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cc: Mr. Kim

[drafted by Ioan Tudor]

9/11

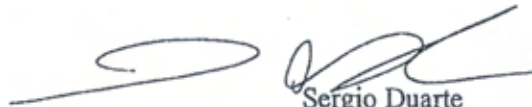
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Note to the Secretary-General

ISSUE OF CLUSTER MUNITION: SECRETARY-GENERAL'S MESSAGE TO THE PARTIES OF THE CONVENTIONAL WEAPONS CONVENTION

1. Your message of 7 November to the current Meeting of States Parties of the Conventional Weapons Convention (CCW), which I read out on your behalf, dealt in part with cluster munitions. The remarks reflected the statement on cluster munitions developed at the level of Principals on 17 September, chaired by USG Jean-Marie Guéhenno.
2. Those remarks have been seen by several delegations to the CCW meeting, including the United States and Russia, as exceeding what they would see as the neutrality of the Secretary-General. In other words, they have interpreted the Secretary-General's remarks as favouring the parallel process on cluster munitions – known as the Oslo initiative – over the much more laboured CCW process. (The Oslo process has so far attracted very few of the main users and manufacturers of these weapons, and thus, as a like-minded endeavour, has outpaced the CCW to date.)
3. Such an interpretation of the Secretary-General's remarks is mistaken. The Secretary-General has been at pains to direct his attention on cluster munitions to the humanitarian objective at stake rather than the process that delivers the objective. This is clear from the key point made by the Secretary-General which was: *"I urge you [ie, the States Parties to the CCW] to address the horrendous humanitarian, human rights and developmental effects of cluster munitions by concluding a legally binding instrument of international humanitarian law. The instrument should prohibit the use, development, production, stockpiling and transfer of cluster munitions that cause unacceptable harm to civilians."*
4. This position was reiterated in a statement of the UN Mine Action Team comprising 14 UN agencies involved in mine action which also made it quite clear that the appeal was directed to the CCW States Parties rather than to the 80 or so nations, many of them also parties to the CCW, that associate themselves with the Oslo initiative. The UNMAT statement said: *"We have also shared our hope - reiterated in the UN Secretary-General's message this morning - that this forum [emphasis added] would respond to the humanitarian and development imperatives and provide an urgent and comprehensive response to the unacceptable problems posed by inherently inaccurate and often malfunctioning cluster munitions, both at the time of use and long after conflicts have ended."*
5. In the event, however, that any representations are made to the Secretary-General by countries mentioned in paragraph 2 above, we suggest that you draw on the following points:
 - The Secretary-General is very concerned about the humanitarian impact of cluster munitions.
 - The Secretary-General is anxious therefore that a legally-binding negotiating instrument should be developed to prohibit their use as soon as possible. And he has addressed himself to the CCW States Parties accordingly (on 7 November).
 - The Secretary-General is very conscious that the CCW of which he is the depositary has been slow to respond to the growing humanitarian concerns about cluster munitions. He hopes that this situation has now been reversed.

- The Secretary-General is also conscious that the Oslo initiative has been a spur to action within the CCW.
- The humanitarian objective of prohibiting the use of cluster munitions that cause unacceptable harm to civilians stands very clearly above matters of process on which it is not appropriate for the Secretary-General to be drawn.
- Until that objective is achieved, the Secretary-General will therefore be following developments very closely, and will continue to provide his support and that of the Secretariat to the CCW on this and other issues.



Sergio Duarte
9 November 2007