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Aotearoa NZ CMC members:

Amnesty International Aotearoa NZ, Aotearoa Lawyers for Peace, Campaign Against Landmines, Caritas Aotearoa NZ, Christian World Service, Development Resource Centre, Engineers for Social Responsibility NZ, International Physicians for the Prevention of Nuclear War NZ, National Council of Women NZ, National Consultative Committee on Disarmament, Oxfam NZ, Parliamentarians for Nuclear Nonproliferation and Disarmament NZ, Pax Christi Aotearoa-NZ, Peace Foundation NZ, Peace Foundation Disarmament and Security Centre, Peace Movement Aotearoa, Soroptimist International NZ, UN Association NZ, UN Youth Association NZ, UNICEF NZ, Women's International League for Peace and Freedom, Aotearoa



24 July 2008

Ambassador William McCormick
Embassy of the United States of America
29 Fitzherbert Terrace, Thorndon
Wellington

RE: U.S. Policy on Cluster Munitions

Dear Amb. McCormick:

I am writing on behalf of the Aotearoa New Zealand Cluster Munition Coalition to express our deepest concern at the recently released U.S. policy on cluster munitions: "Cluster Munitions and Unintended Harm to Civilians" issued by U.S. Secretary of Defense Robert Gates (dated 19 June, but not formally released until 9 July 2008).

The policy states that cluster munitions are "legitimate weapons with clear military utility." According to the policy, after 2018 the U.S. will use cluster munitions with a claimed failure rate of less than 1 percent. This means that the U.S. will allow unfettered use of its stockpile of nearly 1 billion submunitions for the next decade, almost all of which are known to have very high failure rates and to be highly inaccurate, as shown in Lebanon, Iraq, Afghanistan, Kosovo, and in southeast Asia.

The policy of continued use of all cluster munitions until 2018 represents a real step backward from previous Pentagon policy, which since 2005 has been to purchase only new cluster bombs with a claimed failure rate of less than 1 percent, and Congress applied that same criteria to cluster bomb exports last year.

Beyond this, we are appalled that a policy which "recognizes the need to minimize the unintended harm to civilians and civilian infrastructure" and "the obligation to minimize unacceptable collateral effects", lists engaging "targets whose precise locations are not known" as one of the "military requirements" to justify continued use of cluster munitions. This suggests a complete lack of understanding of states' obligations under international humanitarian law, as well as a total disregard for the harm caused by this type of weapon.

On 30 May 2008, a total of 107 states (including New Zealand, and all major NATO allies) adopted the Convention on Cluster Munitions at the Diplomatic Conference held in Dublin, Ireland. They recognised that a failure rate approach would not prevent unacceptable harm to civilians, and agreed to comprehensively ban the use, production, trade and stockpiling of all cluster munitions, no matter what the failure rate.

The release of the new U.S. policy seems deliberately timed to undermine the treaty prohibiting cluster munitions, which we view as the most significant disarmament advance since the creation of the Mine Ban Treaty a decade ago. In addition to its ban provisions, the Convention on Cluster Munitions provides groundbreaking humanitarian obligations for victim assistance and provides strict deadlines for the removal of cluster munition remnants and destruction of stockpiled cluster munitions.

While the U.S. decision to not participate in the Oslo Process that resulted in the treaty was regrettable, it was made worse by the pressure that U.S. officials and leaders placed on states participating in the Dublin negotiations, to support the U.S. position against the treaty. Ultimately the U.S. found very little support for its demands, due to the steadfast resolve of the states that agreed to adopt the Convention.

According to the new policy, the U.S. will also seek to ship cluster bombs to other nations, despite current U.S. legislation prohibiting such transfers (signed into law by President Bush in 2007). This export restriction has bipartisan support and is likely to be renewed in the coming year. The export market may in any case be limited, as the majority of past recipients of U.S. cluster munitions have agreed to relinquish the weapon through their support for the Convention.

We would sincerely like to see the U.S. join the Convention on Cluster Munitions when it is opened for signature in Oslo, Norway on 3 December 2008, or soon thereafter. Signature would represent a long-awaited return by the U.S. to multilateralism, as well as an acknowledgment that this crucial treaty enhances the humanitarian protections afforded to civilians.

We request that you raise our points with U.S. Secretary of State Condoleezza Rice during her visit, as well as relay them on to Washington, DC. We would also like to request a meeting with you to further discuss the cluster munitions policy. Please contact me to schedule a suitable time.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Mary Wareham', with a stylized, cursive script.

Mary Wareham
Coordinator, Aotearoa New Zealand Cluster Munition Coalition

CC:

Ms. Lora Lumpe, Coordinator, U.S. Campaign to Ban Landmines & Cluster Munitions

Mr. Thomas Nash, Global Coordinator, Cluster Munition Coalition